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THE  
HISTORY  
OF  
ENGLAND.

Written in FRENCH by  
M. RAPIN DE THOYRAS.

Translated into ENGLISH, with Additional Notes, by  
N. TINDAL, M. A.  
Rector of ALVERSTOKE, in HAMPSHIRE, and  
Chaplain of the Royal Hospital at GREENWICH.

ILLUSTRATED WITH  
MAPS, GENEALOGICAL TABLES, and the HEADS  
and MONUMENTS of the KINGS.

The FOURTH EDITION, corrected

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V O L. XII.

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L O N D O N:

Printed, by Assignment from Mr. KNAPTON, for  
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MDCCLVII.

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VOL. XII.

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Printed, by Assignment from the Executors, for  
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MDCCLXXII.

Wesley 1758

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THE  
HISTORY  
OF  
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BOOK XXIV.

*The Reign of King JAMES II. from his Accession to the Throne, to the Establishment of King WILLIAM and Queen MARY: containing the Space of Four Years and Seven Days.*

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27. JAMES II.

**W**ITHIN a few hours after Charles had resigned 1684-5, his last breath, his brother, the duke of York, The duke of York is proclaimed King in London, by the name of James II. Having seen how the government was settled for some years past, we must not think it strange, Feb. 6. there was no endeavours, either in London or any other part of the kingdom, to oppose the new king. Of the two parties in England, that against the bill of exclusion was triumphant, and the other entirely broken and oppressed. The accession of James II. to the crown, was a fresh occasion of triumph to the former, and notwithstanding the fears expressed by the other party, about a Catholic successor, they who had supported his interest, endeavoured to represent the late



James II. late change, as the greatest of blessings to the English nation, 1684-5. The king, on his part, omitted nothing that lay in his power to confirm the good opinion his friends had of his virtue and sincerity. As soon as the lords were returned to Whitehall from proclaiming the king, he assembled the privy-council, and made the following speech:

"My Lords,

The king's  
declaration  
to the  
Council.  
Gazettes  
No. 2006.  
Kennet.  
p. 420.  
mounted 1700  
gain 412 to

"Before I enter upon any other business, I think fit to say something to you. Since it hath pleased Almighty God to place me in this station, and I am now to succeed so good and gracious a king, as well as so very kind a brother, I think it fit to declare to you, that I will endeavour to follow his example, and most especially in that of his great clemency and tenderness to his people. I have been reported to be a man for arbitrary power; but that is not the only story has been made of me; and I shall make it my endeavour to preserve this government both in church and state, as it is now by law established. I know the principles of the church of England are for monarchy, and the members of it have shewed themselves good and loyal subjects, therefore I shall always take care to defend and support it. I know too, that the laws of England are sufficient to make the king as great a monarch as I can wish; and as I shall never depart from the just rights and prerogative of the crown, so I shall never invade any man's property. I have often heretofore ventured my life in defence of this nation, and I shall still go as far as any man in preserving it in all its just rights and liberties."

Every body  
is pleased  
with the  
speech.  
Gazettes.  
Kennet.  
Burnet.

Echard.  
III. p. 729.

Every one  
retains his  
place.  
Gazettes  
No. 2006.  
Kennet.  
Burnet.

This speech being addressed to a council wholly composed of persons devoted to the king, was received with great applause. His majesty was desired that it might be printed, and dispersed among the people, which was immediately done. Moreover, great care was taken to extol the king's extreme affection for his subjects; and, above all, his strict observance of his word and faith was so industriously propagated, that some counting it impossible for the king to promise what he did not intend to perform, began to give him the name of JAMES THE JUST, as if to say and to do, were in him one and the same thing.

The next day, the king published a proclamation, declaring, that all persons who at the late king's decease were possessed of any office, should be continued in the same, till the king's pleasure was further known. He declared, moreover, that all orders and directions given by the late king's privy-



privy-council, should be obeyed and performed, as if he were James II. still alive. This is a clear evidence of the great influence 1684-5. that the king, when duke of York, had in the counsels of the king his brother. Upon his coming to the crown, he made no changes, either in the council, or in the chief places of trust, a plain sign that he looked upon the possessors as his creatures. And indeed, since his return from Scotland, he had properly governed the kingdom in his brother's name. This being known to all, might have shown with what intention he promised to preserve the Protestant religion, and the rights of the subject, since no man could be ignorant, that he was the principal author of the plots in the late reign, against religion, and the liberties of the nation. But the Tories, who were then highly exalted, were willing to shut their eyes, and not see the danger the Protestant religion was in, under a king who was so zealous a Papist. The king's bare word was sufficient to calm all their uneasiness on that account. As for arbitrary power, which began to be introduced in the late reign, far from being frightened at it, they rather considered it as an effectual means to keep their adversaries, the Whigs, in subjection. Had they known or foreseen to what height James was resolved to carry his power, they would, doubtless, have had other thoughts. But they imagined, things would always remain as they were, that is, in a situation to them very advantageous.

Most of the historians represent as surprizing, the king's going publickly to mass two days after his accession to the crown. But I cannot see any reason for this surprize. Since the year 1670, no man had been ignorant that the duke of York was a Catholic. On this account he had resigned the office of lord high-admiral, and in the following years, the bill of exclusion, which caused three parliaments to be dissolved, had sufficiently taught the English this truth. Where then could the wonder be, to see him go to mass, being king, since for the last fourteen years he had not concealed his religion, though he had run the risque of forfeiting his right to the crown?

But what gave more just cause of surprize, was, his requiring by proclamation the same week, that the customs, and other duties which had been granted to the king his brother, only for life, should be continued to be collected (a).

A 3

(a) Another proclamation was put out for levying the additional excise, which had been given to the late king

only for life. There was a clause in this act, that empowered the treasury

without R. Coke.

The king makes no alterations.

The Tories conceive a great opinion of the king.

He goes publickly to mass, Echard. III. p. 731. R. Coke, p. 326.

Customs and duties continued before they are granted. Feb. 16, Gazettes No. 2009.

Welwood. p. 621.

**James II.** This was a manifest invasion of the nation's rights and liberties (b). He could not be ignorant, that an incroachment of the same nature had occasioned a great contest between the king his father and the parliament, and that this contest produced the petition of right. And yet, he not only undertook the same thing, but used also the same reasons with Charles I, which were so little satisfactory to the parliament. His proceedings were the more surprizing, as he affected to take by authority, what he knew would not be refused by the parliament, considering the present disposition of the kingdom. Though his friends endeavoured to excuse this conduct, it made impression upon many of both parties, who had no good opinion of a reign which began in this manner. This gave occasion to fear, that the new king's promises were not so firmly to be relied on, as was pretended.

He publishes that the late king was a Papist. Kennet. P. 423. Burnet. Echard. III. p. 731. Another step the king made at the same time, and, as it seems, without any necessity, was to cause it to be published, and attested by father Huddleston a priest, that Charles II. died a Catholic, and that the same priest gave him the eucharist and extreme unction. Huddleston published withal a little treatise, called, "a short and plain way to the faith and church;" which treatise, the author affirms, made great impressions upon the mind of king Charles, in the year 1651, immediately after the battle of Worcester, so that he declared, "he had not seen any thing more plain and clear upon the subject; and the arguments drawn from succession were so conclusive, he did not conceive how they could be denied." Moreover, at the same time, James ordered two papers to be published, found in the king his brother's strong box, written with his own hand, both tending to prove the necessity of a visible church and guide in matters of faith (c). To confirm that Charles II was really a Catholic, Mr. William Chassinch, keeper of the king's closet, made no scruple to show a little chapel annexed to the closet, where the king went secretly to mass. It is hard to conceive, what great advantage it could be to James to divulge such a secret, con-

Echard.  
P. 732.

without adding a limiting clause, in case it should be so long due. And it was thought a great stretch of the clause, to make a fraudulent farm, by which it should continue to be levied three years after it was determined, according to the letter and intent of the act. A farm was now brought out, as made during the king's life, though it was well known, that no such farm had been made, for it was made after

his death, but a false date put to it. Burnet, p. 622.

(b) It was an open violation of our fundamental constitution, by which no money can be levied on the subject, but by their consent in parliament, as Dr. Welwood rightly observes, p. 138.

(c) The duke of Ormond, besides the king's attestation, declared the papers to be king Charles's own hand.

sidering



sidering the injury he did the late king's reputation, who had James II. so frequently and solemnly affirmed in full parliament, that 1684-5. he was a good Protestant, and had positively promised to maintain the Protestant religion to the utmost of his power. As James thereby manifestly showed the insincerity of his brother, he should, it seems, have feared, it would be inferred, there was no more reason to confide in his own promises.

The Funeral of Charles II was solemnized on the 14<sup>th</sup> of February at night. It may easily be judged, it was not very expensive, since eight days were sufficient for the preparations. It is observable, that Charles II had neglected after his restoration to solemnize his father's funeral, on pretence, that his body could not be found in Windsor chapel, the place where it was interred, as the lord Clarendon says in his history. But as it would have been easy to search the whole chapel, it is more likely, the reason of that neglect was the charges of a funeral, though Charles II had received for that purpose from the parliament the sum of seventy thousand pounds. For the same reason, probably, James caused his brother to be buried with little pomp, though Charles left him ninety thousand guineas in a box.

Two days after, the king ordered the privy-counsellors and great officers of the crown and household to be sworn, and at the same time filled the vacant places. The office of lord-treasurer, vacant since the year 1679, by the resignation of the Earl of Danby, was conferred on Lawrence Hyde, earl of Rochester, the king's brother-in-law; Henry earl of Clarendon, elder brother to the earl of Rochester, was made lord privy-seal; and George Savil, marquiss of Halifax, president of the council (d).

In the mean time, the counties, cities, boroughs, and universities, were employed in preparing congratulatory addresses to the king, upon his accession to the crown. These addresses, for the most part, took notice of the king's positive declaration to the privy-council, to maintain the church of England and the liberties of the nation. But there were two amongst others very remarkable. The first from the barristers

(d) The duke of Beaufort was made lord president of Wales; the lord Arlington lord high chamberlain; the duke of Ormond lord Steward of the household; the lord Godolphin lord chamberlain to the queen; the lord viscount Newport treasurer of the house-

hold; the lord Maynard comptroller; Henry Savil vice-chamberlain; Henry Bulkley master of the household; Sir Stephen Fox, Sir William Boreman, Sir Winston Churchill, and Sir Richard Mafon, clerks and comptrollers of the green-cloth. Kennet, p. 421.

The late king's funeral. Sandford, Gazettes. No. 2008. Burnet.

James fills the vacant places. Feb. 9. 16. Gazettes. Kennet. p. 421.

Great number of addresses. Gazettes.

That of the Middle-Temple. Ibid.

No. 2015. Kennet. p. 420.

James II. and students of the Middle-Temple, wherein "with the  
 1684-5. "deepest sense of gratitude they acknowledged his Majesty's  
 "great goodness, in extending his royal care of the govern-  
 "ment to the preservation of the customs, which had been  
 "continually received by his royal predecessors for some hun-  
 "dreds of years, and never questioned by any parliament,  
 "unless in that wherein were sown the seeds of rebellion  
 "against the king his father (e)." They concluded with  
 saying, "May there never want millions as loyal as we are,  
 "to sacrifice their lives and fortunes in defence of your sa-  
 "cred person, and prerogative in its full extent." And pro-  
 mised that they would endeavour the choice of such represen-  
 tatives for the ensuing parliament, as would not only concur  
 in settling a revenue to support the government as formerly,  
 but also show an entire confidence in his majesty. The ad-  
 dress from the county of Suffolk had these words: "We are

Another  
 from Suffolk  
 Gazettes.  
 Echard.  
 III. p. 733.  
 That of the  
 Quakers.

"every day making steps towards your majesty's grandeur, by  
 "our care for sending fit representatives to a parliament,  
 "that we hope will no more endure excluders than a late one  
 "did abhorers." The Quakers also presented an address to  
 the king, wherein they said: "Whereas it hath pleased Al-  
 "mighty God (by whom kings reign) to take hence the late  
 "king Charles the second, and to preserve thee peaceably  
 "to succeed: we thy subjects heartily desire, that the giver  
 "of all good and perfect gifts, may please to endue thee with  
 "wisdom and mercy in the use of thy great power, to his glory,  
 "the king's honour, and the kingdom's good. And it being  
 "our sincere resolution, according to our peaceable prin-  
 "ciples and conversation (by the assistance of Almighty God)  
 "to live peaceably and honestly, as becomes true and faith-  
 "ful subjects, under the king's government, and a conscien-  
 "tious people that truly fear and serve God: We do hum-  
 "bly hope, that the king's tenderness will appear and extend  
 "with his power to express the same (f)." —

(e) The reason of thanking the king  
 for seizing the customs, alledged by  
 those gentlemen, was, "That thou-  
 "sands would be ruined that had paid  
 "custom in the late king's time, if  
 "the customs were not levied, and by  
 "an excessive exportation and impor-  
 "tation custom-free, that branch of  
 "the revenue would be rendered un-  
 "profitable for some years to come."  
 Not considering that entries might be  
 made and bonds taken, to be sued when  
 the act for granting them should pass.

(f) This is the true address from  
 Sewell's History of the Quakers. Ra-  
 pin has wrongly followed Echard, and  
 given it as follows, "We are come to  
 "testify our sorrow for the death of  
 "our good friend Charles, and our joy  
 "for thy being made our governor.  
 "We are told thou art not of the per-  
 "suasion of the church of England no  
 "more than we; therefore we hope  
 "thou wilt grant us the same liberty  
 "which thou allowest thyself."

The



The king's and queen's coronation was celebrated the 23d James II. of April, St. George's-day, patron of the order of the Garter. 1685.

Though such a ceremony cannot be solemnized without pomp, it was observed, the king retrenched several things which caused a needless expence, as for instance, the cavalcade from the Tower to Westminster, which was wont to be performed the day before the coronation, saving thereby a charge of sixty thousand pounds. But if some authors are to be credited, the most considerable retrenching was in the words of the coronation oath, out of which, they pretend, several material things were struck, without specifying the particulars. Others maintain, it is an aspersion on archbishop Sancroft, who is supposed, without foundation, to have consented to the abridging of the oath. As I have seen no proof on either side, I forbear to decide. Thus much is certain, the crown not being fit for the king's head, was often in a tottering condition, and like to fall off. Mr. Henry Sidney supporting it once with his hand, pleasantly told the king, "This is not the first time our family hath supported the crown" (g). The people reckoned this an ill omen to the king, as well as another thing which happened the same day. In one of the churches in London, the king's arms, painted in a glass window, suddenly fell down and broke in pieces, while the rest of the window was standing, without a possibility of discovering why that part should fall sooner than the rest (h).

The same day that the king was crowned at London, the Parliament of Scotland met at Edinburgh, William Douglass, duke of Queensbury, being lord high-commissioner. This lord was entirely in the king's party, but not in such a manner as to pretend to sacrifice to him the Protestant religion and his country's liberties. Before he left London in order for Scot-

(g) Mr. Sidney, who was afterwards earl of Rumney in king William's reign, was one of the principal instruments in the downfall of king James, and one of the first that went and joined the prince of Orange. Rapin.

(h) The crown was not well fitted to the king's head: it came down too far, and covered the upper part of his face. The canopy carried over him did also break. But to take such things for omens is ridiculous. Turner preached the coronation-sermon, in which he set forth that part of Constantius Chlorus's history, wherein he tried who

would be truest to their religion, and reckoned that those would be faithfullest to himself who were truest to their God. The king and queen resolved to have all done in the Protestant form, and to assist in all the prayers: only the king would not receive the sacrament. In this certainly his priests dispensed with him, and he had such senses given him of the oath, that he either took it as a sin with a resolution not to keep it, or he had a reserved meaning in his own mind. Burnet, p. 628.

The king and queen crowned. Gazettes No. 2028. Kennet. Burnet. p. 628. Echard. III. p. 734.

Echard. Ibid.

Proceedings of the parliament of Scotland. Gazettes No. 2031. Burnet. p. 635. Echard.

III. p. 735. &c. Boyer.

land,

James II. land, he told the king plainly, he could not engage to serve  
 1685. him in any thing but what should be agreeable to the laws;  
 ————— whereupon the king protested to him, he had no intention  
 to make any breach either in the established religion or the  
 laws.

Gazettes.  
 Ibid.

The king's letter to the Scotch parliament ran, " That the  
 " many experiences he had of the loyalty and exemplary for-  
 " wardness of that ancient kingdom, by their representatives  
 " assembled in parliament in the reign of his brother, made  
 " him desirous to call them together in the beginning of his  
 " reign, to give them an opportunity not only of shewing  
 " their duty, but also to be exemplary to others in their de-  
 " monstrations of their affection to his person, and com-  
 " pliance with his desires. That which he had to propose to  
 " them at this time, was what was as necessary for their  
 " safety as his service, and had a greater tendency to secure  
 " their own privileges and properties, than the aggrandizing  
 " his power, which, however, he was resolved to maintain  
 " in its greatest lustre, that he might be the more enabled to  
 " defend and protect their religion as established by law, and  
 " their rights and properties, against phanatical (i) con-  
 " trivances, murderers, assassins (k), which had brought  
 " them into such difficulties, as only the steady resolutions  
 " of his brother and those employed by him, could have  
 " saved them from the most horrid confusions and inevitable  
 " ruin. That nothing had been left unattempted by those  
 " inhuman traitors, to overturn their peace; and therefore  
 " he hoped they would be wanting in nothing to secure them-  
 " selves and him." —

The lord  
 commissi-  
 sioner's  
 speech.  
 Gazettes  
 No. 2031.

The High-commissioner seconded the king's letter with a  
 speech, wherein he gave them assurance of his majesty's reso-  
 lution to protect and maintain the religion and government of  
 their church as by law established (l); and also the subjects  
 rights and properties, in such manner, that no person should  
 be injured by any arbitrary oppressions of soldiers or others;  
 and he would condescend as much in the business of the ex-  
 cise and militia as could be justly expected. And, on the  
 other side, his majesty expected from them, to assert the  
 rights and prerogatives of the crown, and to establish the re-  
 venue as amply upon him and his successors, as it was en-

(i) The rigid Covenanters and Pres-  
 byterians were called Fanatics by the  
 court. Rapin.

(k) Among these were the per-  
 sons that murdered the archbishop of

St. Andrews. Id.

(l) The same as in England, none  
 other being then tolerated in Scot-  
 land. Id.



joyed by the king his brother. In the last place, the lord-James II. commissioner desired in very pathetic terms, that effectual <sup>1685.</sup> means might be found to destroy the phanatical party, who were wretches of such monstrous principles and practices, as past ages never heard, nor those to come will hardly believe.

These phanatical murderers and assassins could be no other than the Presbyterians of Scotland, who were properly the body of the nation, to whom was imputed the murder of the archbishop of St. Andrew's, as if it had been committed by the determination of the whole Presbyterian party.

James Drummond, earl of Perth, lord chancellor, made a <sup>Gazettes.</sup> speech likewise, in which he enlarged on the king's great <sup>Ibid.</sup> virtues. I do not know whether he was yet a Papist, but at least, presently after, he embraced the Catholic religion, and by that infallible means supplanted the duke of Queensbury.

The parliament returned a very humble and submissive an-<sup>Ibid.</sup>swer to the king, promising to do whatever he desired. To perform which promise they forthwith passed the three following acts.

By the first act were ratified all statutes passed in the late <sup>No. 2032.</sup> reign for the security of religion as at present professed within the kingdom.

By the second, they annexed the excise of foreign and inland commodities to the crown of Scotland for ever.

By the third, they ordained, that all such persons, as being cited in case of high-treason, field or house conventicles, or church irregularities, should refuse to give testimony, should be liable to be punished as guilty of those crimes respectively, in which they refused to be witnesses.

Before the meeting of the parliament of England, which <sup>Trial of Ti-</sup> was called the 19th of May, three persons, odious to the <sup>tus Oates.</sup> king, the Papists, and the prevailing party, were brought to <sup>State-trials.</sup> their trials. The first was the famous Titus Oates, disco- <sup>IV. p. 1.</sup> verer of the Popish plot, and one of the witnesses against the <sup>Burnet.</sup> condemned Jesuits. He was accused of perjury on two points, <sup>p. 637.</sup> of his evidence, namely, for affirming upon oath, that he <sup>Kennet.</sup> was present at the grand consult held at London the 24th of <sup>p. 437.</sup> April 1678, where, as he pretended, the resolution of killing <sup>Echard.</sup> the king was taken. Secondly, for saying, that father Ire- <sup>R. Coke.</sup> land, an executed Jesuit, was at London such a day. To convict him of these two real or pretended crimes, he was brought before chief-justice Jefferies at the King's-Bench bar, the 8th and 9th of May 1685. As I have amply spoken of this matter in the reign of Charles II, I shall not repeat here what

James H. what has been already said, but confine myself to show the  
1685. partiality wherewith Oates was tried and condemned.

State-Trials,  
IV. p. 6.

In the first place, immediately after the indictment was read, and before any witness was heard, the attorney-general, Sir Robert Sawyer, made a speech, declaring, "Oates was one of the greatest impostors that ever did appear upon the stage, either in this kingdom or any other nation." It must be observed, this attorney-general had been one of the counsel for the king in 1678, to support and improve Oates's evidence.

2. Twenty witnesses from St. Omer's were produced, who swore, that Oates was at that place the 24th of April 1678, at the very time that he said he was present at the grand consult. It is observable, that these very witnesses had deposed the same thing in 1678, and that the jury had not regarded their evidence. But in 1685 there was not the least reason to reject their depositions.

p. 26, &c.

3. Oates desired it might be observed, that the king's counsel who were now against him, had been for him in the trials of the five Jesuits, and particularly the attorney and solicitor-general: that lord chief-justice Jefferies, before whom his cause was pleading, was among the king's counsel in 1678, and did then expressly declare, "That the verdict against the five Jesuits was a just verdict." As he laid great stress upon the verdicts given upon his depositions, he was told, that these verdicts had been disbelieved several times, as well as believed. Moreover, the records of the trials of Sir George Wakeman and the earl of Castlemain were produced, who being accused of the pretended plot, had been acquitted, and deposed upon oath, that Oates had not said one word of truth.

p. 29.

p. 50.

4. Oates demanded, "Whether a Papist in case of religion might be believed?" It was replied, "He might." And as if the question had been impertinent and foreign to the purpose, justice Withens asked him, "Whether he was come there to preach?"

Ibid.

5. Oates urged the lord Coke's practice, who would not allow of a Popish recusant for a witness, even between party and party. To which it was answered in general, that this practice was contrary to law.

p. 51.

6. He said, that the witnesses against him were brought up in a seminary, against law. Jefferies replied, so was a Dissenter.

Ibid.

7. He insisted upon the statute of the 27th year of Elizabeth against seminary priests and Jesuits. Whereupon Jefferies asked



asked him, whether the witnesses owned themselves to be James II. priests and Jesuits? 1685.

8. He pleaded the statute of the third of Charles I, to which Jefferies answered, It was nothing to the purpose. Ibid.

9. Lastly, He represented, that the lord Shaftsbury, upon his trial, moving that he might have liberty to bring an indictment of perjury against the witnesses that accused him, the court over-ruled the motion, and would not suffer the king's evidence to be indicted of perjury, nor the Popish plot called in question. He inferred from thence, that having been himself evidence for the king, he could not for that reason be indicted of perjury. Jefferies told him, all this was nothing to the purpose. Then summing up the evidence, he concluded with these words: "There does not remain the least doubt, but that Oates is the blackest and most perjured villain that ever appeared upon the face of the earth." P. 42.

The jury withdrawing about a quarter of an hour brought him in guilty of the perjury he was accused of. Ibid. p. 66.

The next day, he was tried upon the second indictment of perjury, concerning father Ireland. Above forty witnesses were produced against him, nine of whom were Protestants, who swore, that Ireland was in Staffordshire when Oates said he was in London (m), and he was also found guilty of this indictment. What is most strange, some pretend, there is not the least appearance of injustice or partiality in the verdict against Oates, but on the contrary, the partiality is evident in the verdict against the five Jesuits. I leave it to the unbiassed reader to compare them and judge. But at least it cannot be denied, there was a great deal of passion in the sentence against Oates, and much more in the execution of the same. The sentence was as follows. May 16. p. 104.

1. That he should pay for a fine one thousand marks upon each indictment.

2. That he should be stript of all his canonical habits.

3. That he should stand in the pillory before Westminster-Hall gate upon Monday next, for an hour's time, with a paper over his head (which he must first walk with round about to all the courts in Westminster-Hall) declaring his crime; and that upon the first indictment.

4. That for the second indictment, he should, upon Tuesday, stand in the pillory at the Royal Exchange in London, for an hour, with the same inscription.

(m) It undeniably appeared, from London at that time. See R. Coke, the books of one Hinton, a Goldsmith p. 350. in Lombard-street, that Ireland was in

5. On

James II. 5. On Wednesday he should be whipt from Aldgate to  
1685. Newgate.

6. On Friday he should be whipt from Newgate to Tyburn.

7. And for annual commemorations, upon every 24th of April, as long as he should live, he was to stand in the pillory at Tyburn, just opposite to the gallows, for an hour.

8. That, upon every 9th of August, he was to stand in the pillory at Westminster-Hall gate, because he had sworn that Ireland was in town between the 8th and 12th of August. The like on every 10th of August at Charing-cross, and over-against the Temple-gate every 11th of August. And upon every 2d of September he was to do the same at the Royal-Exchange. All this he was to do every year during his life, and be committed a close prisoner as long as he lived.

After pronouncing this sentence, Jefferies added, that if it had been in his power, Oates should have been condemned to die.

It must be observed, that standing in the pillory, which in other countries only exposes to shame, is in England something more; for it is permitted to pelt those that stand there, with dirt, and all sorts of nastiness, and it often happens that the mob abuse this liberty, and throw rotten eggs and even stones at the prisoner.

But what was thought most barbarous in this sentence, was the ordering a man to be whipt twice in three days. Some charitable persons used their endeavours to beg off part of this wretched man's punishment, and made application to the queen, intreating her to intercede for him, at least with regard to the second scourging. But all intercession was in vain. The sentence was executed with all imaginable rigour and barbarity. The first day he was tied to a cart, and as the hangman no doubt was commanded not to spare him, he executed the order with such cruelty, as was unknown to the English nation. Oates swooned away several times the first day, with the extremity of the anguish. We may judge what he endured the second day, when his wounds were yet fresh. In a word, his sustaining such great torments, and escaping with life, was looked upon as something miraculous. Every one was sensible that both in the sentence and in the execution revenge had a greater share than justice, and that he was made a sacrifice to the manes of the five Jesuits executed in the late reign.

Trial of The next victim to the Catholics, not long after Oates,  
Dangerfield. was Thomas Dangerfield, who discovered the pretended meal-  
Burnet. tub-



tub-plot, which he had laid to the charge of the Protestants. James II. But afterwards, not being able to maintain before the council <sup>1685.</sup> what he had deposed, he confessed, he was persuaded to invent it by the countess of Powis, and the Popish lords in the Tower. <sup>p. 537. Kennet, p. 438. Echard.</sup> Moreover, he had published a narrative of all the secret practices used as well to corrupt him, as to render the plot probable. As he owned, he had received money from the late king and the duke of York, the last would never suffer such an offence to go unpunished, when he came to be king. Dangerfield therefore was committed to prison, and indicted for publishing a scandalous libel. He was tried and brought in guilty by the jury, after which he received judgment at the King's-Bench bar, "That he should stand twice in the pillory; that he should be whipt from Aldgate to Newgate on one day, and from Newgate to Tyburn on another, and should pay a fine of five hundred pounds." The scourging was executed with rigour, though with less cruelty than on Oates. The second day, Dangerfield, after the whipping was over, being in a coach against Hatton-Garden, Robert Frances, a barrister of Grey's-Inn, came to the coach-side, and using some insulting expressions, Dangerfield returned a reproachful answer (n). Frances having a small cane in his hand, thrust it into his eye with all his force, which in two hours put an end to his life. Frances was condemned to be hanged, and was executed accordingly, the king, though strongly solicited for a pardon, not thinking proper to leave such a crime unpunished (o). <sup>He is condemned to be whipped.</sup>

Richard Baxter, a Presbyterian minister, famous for his voluminous writings during the troubles, in favour of his religion against the church of England, was the third instance of the mildness of the new government. As he could not be proceeded against for his books published during the troubles, by reason of the act of indemnity, occasion was taken to prosecute him for a late book, intitled, A Paraphrase on the New Testament; wherein it was pretended, there were several seditious passages, and highly reflecting on the bishops. Baxter being brought before Jefferies at the King's-Bench bar, and moving, that farther time might be allowed him for his trial, Jefferies, with his usual moderation, <sup>Baxter's Trial. May 30. Kennet. p. 443. Echard. III. p. 743.</sup>

(n) Frances said to him, "How now, friend, have you had your heat this morning?" Upon which the other, with two or three curses, called him "Son of a whore." Echard, Tom. III. p. 742.

(o) Some say, that Frances was a

virulent Papist; and others, that he was a Protestant: but others observe, that he was only instructed to die in the profession of being of the church of England, as by law established. Kennet, p. 438. Echard, Tom. III. p. 742.

cried

James II. cried out, "I will not give him a minute's time more to save  
 1685. " his life: we have had to do with other sort of persons, but  
 " now we have a saint to deal with; and I know how to  
 " deal with saints as well as sinners. Yonder (says he) stands  
 " Oates in the pillory, and says, he suffers for the truth,  
 " and so says Baxter; but if Baxter did but stand on the  
 " other side of the pillory with him, I would say there stood  
 " two of the greatest rogues and rascals in the kingdom."  
 In this manner did the judge prepare the jury, before any evidence was heard. It would be needless to insert the particulars of the charge, and Baxter's defence. The point was only to know, whether certain passages of his late book could be applied to the prelates of the church of England, or solely to those of the church of Rome. Baxter's counsel (p) urged, that without a forced construction, none of the passages could be applied to the bishops of the church of England. The whole process turned upon this point. But it will not be improper to show the passion and partiality of Jefferies in this, as in all other affairs. Baxter alledged in his defence, " That  
 " he had been so moderate with respect to the church of  
 " England, and had spoken so honourably of the bishops,  
 " that he had incurred the censure of many of the Dissenters  
 " upon that account." Jefferies, laying aside on this occasion the office of a judge to turn evidence, affirmed, " That  
 " Baxter was an enemy to the name and thing, the office  
 " and persons of bishops;" and severely reprimanded the counsel, probably for defending their cause too well. Then, speaking to Baxter, he said, " Richard, thou art an old fellow, an old knave, thou hast written books enough to load  
 " a cart, every one as full as sedition, I might say treason,  
 " as an egg is full of meat. Hadst thou been whipped out of  
 " thy writing trade forty years ago, it had been happy. Thou  
 " pretendest to be a preacher of the gospel of peace, and  
 " thou hast one foot in the grave; it is time for thee to begin  
 " to think what account thou intendest to give. But leave  
 " thee to thyself, and I see thou'lt go on as thou hast begun;  
 " but by the grace of God I will look after thee, I know  
 " thou hast a mighty party, and I see a great many of the

(p) Baxter's counsel were Wallop, Williams, Rotherham, Atwood, and Phipps, all retained by Sir Henry Ashurst, who had a particular respect for Baxter. It may be noted of Baxter, that soon after the restoration he refused the bishopric of Hereford, and

when turned out of his living with the rest, sent back a pension of a hundred pounds a year offered him by the king. He frequently attended divine service in the church of England, went to the sacrament, and persuaded others to do the same. Echard, Tom. III. p. 743.



“ brotherhood in corners, waiting to see what will become of James II.  
 “ their mighty Don; and a doctor of the party [Dr. Bates] 1685.  
 “ at your elbow; but by the grace of Almighty God I will  
 “ crush you all.”

The chief justice in summing up the evidence said; “ It is  
 “ notoriously known, that there has been a design to ruin  
 “ the king and the Nation; and this has been the main in-  
 “ cendiary: he is as modest now as can be; but time was,  
 “ when no man was so ready at ‘ Bind your kings in chains,  
 “ and your nobles in fetters of iron; and to your tents, O  
 “ Israel!’ Gentlemen, for God’s sake do not let us be gulled  
 “ twice in an age.”

It manifestly appears from these last words of Jefferies, that  
 Baxter’s book was only a pretence to punish him for what he  
 had done during the troubles. However that be, such was  
 the impartial manner in which this judge directed the jury.  
 There is scarce a man who will deny, that, as well during  
 this reign, as in the latter part of the former, all the juries  
 were packed, and had engaged beforehand to be guided by  
 the court. In conclusion, Baxter being found guilty, judg-  
 ment was given against him, to be fined five hundred marks;  
 to lie in prison till he paid it, and to be bound to his good be-  
 haviour for seven years.

The parliament met the 19th of May. But the king was  
 pleased that the commons should first choose their speaker,  
 before he made his speech to both houses. The choice fell  
 upon Sir John Trevor, who was recommended by the Lord  
 Middleton, one of the secretaries of state; after which, the  
 king came to the parliament the 22d of May, and made the  
 following speech to both houses. As he had that morning  
 received advice of the earl of Argyle’s arrival in Scotland, it  
 gave him occasion to add something to his speech.

“ My lords and gentlemen,  
 “ **A**fter it pleased Almighty God, to take to his mercy  
 “ the late king my dearest brother, and to bring me to  
 “ the peaceable possession of the throne of my ancestors, I im-  
 “ mediately resolved to call a parliament, as the best means to settle  
 “ every thing upon those foundations, as may make my reign  
 “ both easy and happy to you: towards which, I am disposed to  
 “ contribute all that is fit for me to do. What I said to my  
 “ privy-council, at my first coming there, I am desirous to re-  
 “ new to you; wherein I fully declared my opinion concern-  
 “ ing the principles of the church of England, whose mem-  
 “ bers have shewed themselves so eminently loyal in the worst

The king’s  
 speech to  
 both houses.  
 Gazettes,  
 No. 2036.

James II. 1685. " of times, in defence of my father, and support of my brother, of blessed memory, ' that I will always take care to defend and support it: I will make it, my endeavour to preserve this government both in church and state, as it now is by law established; and as I will never depart from the just rights and prerogative of the crown, so I will never invade any man's property: ' and you may be sure, that having heretofore ventured my life in the defence of this nation, I will still go as far as any man in preserving it in all its just rights and liberties.

" And having given you this assurance concerning the care I will have of your religion and property, which I have chosen to do in the same words I used at my first coming to the crown, the better to evidence to you, that I spoke them not by chance, and, consequently, that you may the more firmly rely upon a promise so solemnly made; I cannot doubt, that I shall fail of suitable returns from you, with all imaginable duty and kindness on your part; and particularly, in what relates to the settling of my revenue, and continuing it during my life, as it was in the time of the king my brother. I might use many arguments to enforce this demand, from the benefit of trade, the support of the navy, the necessity of the crown, and the well-being of the government it self; which I must not suffer to be precarious: but I am confident, your own consideration of what is just and reasonable, will suggest to you whatsoever might be enlarged upon this occasion. There is one popular argument, which I foresee may be used against what I ask of you, from the inclination men may have for frequent parliaments, which some may think will be the best secured, by feeding me from time to time, by such proportions as they shall think convenient: and this argument, it being the first time I speak to you from the throne, I will answer once for all, that this would be a very improper method to take with me, and that the best way to engage me to meet you often, is always to use me well (a). I expect therefore that you will comply with me in what I have desired, and that you will do it speedily, that this may be a short session, and that we may meet again to all our satisfactions."

(a) The king's aim, in this latter part of his speech, was to prevent a motion, which was talked of abroad, though none ventured to make it in

the house. " That it was safest to grant the revenue only for a term of years, Burnet, p. 638.



James II.

1685.

“ My lords and gentlemen,  
 “ I must acquaint you, that I have had news this morning  
 “ from Scotland, that Argyle is landed in the West-High-  
 “ lands, with the men he brought with him from Holland;  
 “ and that there are two declarations published, one in the  
 “ name of all those in arms there, the other in his own; it  
 “ would be too long for me to repeat the substance of them,  
 “ it is sufficient to tell you, I am charged with usurpation  
 “ and tyranny: the shorter of them I have directed to be  
 “ forthwith communicated to you. I will take the best care  
 “ I can, that this declaration of their own treason and rebel-  
 “ lion may meet with the reward it deserves: and I will not  
 “ doubt, but that you will be the more zealous to support  
 “ the government, and give me my revenue as I have desired  
 “ it, without delay.”

I shall make upon this speech, three remarks, the impor-  
 tance whereof will hereafter appear. The first is, that when  
 the king renewed to his parliament the promise he had made  
 to the council, to preserve the government both in church and  
 state, as it was by law established, nothing was farther  
 from his thoughts than the performance of it. This will  
 very clearly appear in the sequel. Wherefore this promise  
 was only a lure used by the king to engage the parliament to  
 enable him to proceed without them. This happened ac-  
 cordingly; for this parliament, which had but two short ses-  
 sions, was the only one the king called in his reign.

Remarks on  
the speech.

The second remark is, that when the king said, he would  
 not suffer the government to be precarious, (that is, to de-  
 pend upon the supplies the parliament should grant him from  
 time to time) he plainly intimated, he meant to govern in  
 a different manner from his predecessors, since among all the  
 kings of England, there was never any whose government  
 was not supported by the aids of the parliaments.

The third is, that the objection which he foresaw would  
 be made to his desire concerning his revenue, was so strong,  
 that he could find no other reason to answer it, than a me-  
 nace, which ought rather to induce the parliament to guard  
 against it. For if the king, in case of refusal, thought  
 himself powerful enough to make the parliament repent,  
 how much greater reason was there to fear, if he should be  
 enabled to proceed without the parliament, and to execute his  
 threat.

This parliament, according to some historians, was better  
 composed than any for many years past. All the members  
 were rich, zealous for their country, good churchmen, averse

Various opi-  
nions of the  
present par-  
liament.

James II. to all republican or anti-monarchical principles, faithful to  
 1685. the king, and of so wonderful harmony among themselves,  
 ——— that the like had never been seen. The meaning of all which  
 Echard. in short is, that they were Tories without any mixture of  
 III. P. 744. Republicans, Presbyterians, or Whigs. This parliament  
 consisted indeed of persons prepossessed in favour of the king,  
 who imagining that, according to his promises, he would  
 never meddle with the laws or religion, believed it a signal  
 service to the kingdom, to enable the king to oppose effect-  
 ually the attempts of the Whigs. They were mistaken in  
 their supposition: but it cannot be inferred from their  
 conduct, that they intended to betray the nation's interests,  
 as they plainly showed afterwards.

Burnet,  
 p. 625.  
 R. Coke.  
 p. 338.

Other historians do not give the same idea of this parlia-  
 ment. They pretend, the members for the most part, being  
 elected by the intrigues of the court, were Tories, and most  
 violent for the doctrine of passive-obedience, and for that rea-  
 son surrendered the liberties of the people, and paved the way  
 for the king to become absolute, by granting him such a re-  
 venue as enabled him to govern without a parliament (b).

Though these two assertions with respect to this parlia-  
 ment, seem to be opposite, it is, however, easy to reconcile  
 them, on supposition of a thing which is very true, namely,  
 the parliament was deceived by the king's promises. So, the  
 only difference between these two opinions, is, that the  
 Whigs accuse the Tories of betraying the interest of their  
 country with premeditated design, and the Tories, without  
 denying that they acted indeed against the interests of the  
 kingdom, maintain that they did so through a too great con-  
 fidence in the king's word, given from the throne in the most  
 solemn manner. It will hereafter be seen, that the parlia-  
 ment had no such intention, as is imputed to them: but I  
 cannot say their imprudence may be so easily vindicated.

(b) Burnet says of this Parliament, that all arts were used to manage elec-  
 tions, so that the king should have a  
 parliament to his mind. Complaints  
 came up from all parts of England, of  
 the injustice and violence used in elec-  
 tions beyond what had ever been prac-  
 tised in former times. In the new  
 charters that had been granted, the  
 election of the members was taken out  
 of the hands of the inhabitants, and  
 restored to the corporation-men, all  
 those being left out, who were not ac-  
 ceptable at court. In some boroughs

they could not find a number of men  
 to be depended upon: so the neigh-  
 bouring gentlemen were made corpo-  
 ration-men: and in some places, per-  
 sons of other counties, not so much as  
 known in the borough, were named.  
 This was practised in the most avowed  
 manner in Cornwall by the earl of Bath,  
 who put the officers of the guards name  
 in almost all the charters of that coun-  
 ty, so that the king was sure of forty  
 four votes on all occasions. There were  
 not above forty but what were thus  
 chosen. Burnet, p. 625.

How-



However this be, both houses, pleased with the king's James II. speech, waited on him the same day with an address of thanks; 1685. to which the king answered, "That he was very well ————  
 "pleased with their thanks, and could repeat no more than Both houses  
 "what he had said in the morning, and they should find thank the  
 "that he would be as good as his word." king.

This confirmation was so agreeable to the commons, that His answer, Gazettes.  
 when they returned to their house, they voted immediately, Echard.  
 nemine contradicente, "That all the revenue enjoyed by the III. p. 747.  
 "late king at his death, should be granted to his present Vote for  
 "majesty, and settled upon him during life." Thus the granting the  
 constant and ordinary revenue of the late king, which, ac- same re-  
 cording to the intent of the first parliament, held in his reign, venue as  
 was to be twelve hundred thousand pounds sterling, but Charles II.  
 which amounted to above double that sum; this revenue, I say, enjoyed,  
 which two parliaments had spent about two years in settling,  
 was granted to James II in the space of two hours. They  
 who speak most moderately of this revenue, compute it at  
 more than two millions. But a historian (c) pretends, that R. Coke.  
 including the one hundred and fifty thousand pounds, en-P. 337.  
 joyed by the king while duke of York, and annexed to the  
 crown, the whole amounted to above two millions five hun-  
 dred and fifty thousand pounds. This liberality was not  
 founded upon the services the king when duke of York had  
 done the nation, but solely upon his promises to support the  
 government of the church and state. But, through extreme  
 prejudice, the parliament was not aware, that by granting  
 the king for life such an immense revenue, they enabled him  
 to maintain an army and fleet without the assistance of par-  
 liament, and consequently to subdue those that should dare  
 to oppose his will, as he did accordingly.

The commons having given the king so real a demonstra- The popish  
 tion of their zeal and affection, the lords were willing like- lords are  
 wise to show him how much they were devoted to him in discharged,  
 whatever lay in their power. To that end, the king having together with  
 sent a noli prosequi upon the indictments against the Popish the earl of  
 lords, who had been prisoners in the tower for the plot, Danby.  
 and against the earl of Danby, the house of peers annul- Echard.  
 led their order of the 19th of March 1678-9, and entire- III. p. 747.  
 ly discharged those lords who had been released only upon  
 bail.

(c) Roger Coke; who says that the  
 customs, and other branches of the re-  
 venue, amounted to two millions and

four hundred thousand pounds, besides  
 the hundred and fifty thousand pounds.  
 Tom. II. p. 337.

James II. These proceedings in favour of the Popish lords, made  
1685. way for a bill to reverse the attainder of the lord viscount

Bill in the  
house of  
Lords to  
reverse the  
lord Staf-  
ford's at-  
tainer.  
Kennet,  
p. 441.  
Echard.  
III. p. 748.

Stafford in 1680. The sole reason alledged in the bill for the reversal was in these words: "Whereas it is now manifest, that the said William late viscount Stafford was innocent of the treason laid to his charge, and the testimony whereupon he was found guilty was false. Be it enacted, &c." Thus, the preparers of the bill founded the lord Stafford's innocence upon Oates's being condemned for perjury, though in Oates's trial there was not a word of his testimony against Stafford. Nevertheless, the bill was passed by a majority of voices. But such of the lords (d) as opposed it, entered their dissents for the following reasons:

1. Because the assertion in the bill of its "being now manifest, that the late viscount Stafford died innocent, and that the testimony by which he was convicted was false," which are the sole grounds and reasons given to support the bill, are destitute of all proof, warrant, or testimony, or matter of record before us,

2. That the record of the King's-Bench, read at the committee, concerning the conviction, last term, of one of the witnesses for perjury, in collateral points of proofs, of no affinity to the lord Stafford's trial, and given several years before, it is conceived, can be no ground to invalidate the testimony upon which the said Viscount was convicted, which could never legally be by one witness, and was in fact by the judgment of his peers, on the evidence of at least three.

3. It is conceived, the said judgment in the King's-Bench was unprecedented, illegal, and highly derogatory to the honour, judicature, and authority of this court, who have power to question and punish perjuries of witnesses before them, and ought not to be imposed upon by the judgments of inferior courts, or their attainder of a peer invalidated by implication; and the Popish plot, so condemned, pursued, and punished by his late majesty and four parliaments, after public solemn devotion through the whole kingdom, by authority of church and state, to be eluded to the arraignment and scandal of the government; and only for restoring the family of one Popish lord. And all this being without any matter judicially appearing before us to introduce the same; and the

(d) The earls of Anglesey, Radnor, Kennet, p. 441, 442.  
Stanford, Clare; and the lord Eure.



records of the trial not suffered to be read, for the information of the truth, before the passing of the bill. James II. 1685.

4. For many other weighty reasons, offered and given by divers peers in the two days debate of this bill, both at the committee, and in the house.

These reasons plainly show, in my opinion, that the lords, in passing this bill, designed rather to oblige the king than do justice to the memory of the lord Stafford. But the commons had not the same complaisance, since it was dropt after the second reading, and never heard of more, they having no intention to strengthen or encourage the Popish party (e). Kenner. p. 442.

The parliament of Scotland was still extremely zealous for the king's interest. Besides the acts before-mentioned, they passed one for granting the king during life the yearly sum of two hundred and sixty thousand pounds; and another, declaring, That the giving or taking the national covenant, or the solemn league and covenant, or owning them as lawful or obligatory, should incur the crime of high-treason. Act of parliament in Scotland. Kenner. p. 416. Echard. III. p. 749.

Since the earl of Argyle's escape after his condemnation in 1681, he had kept himself concealed at Amsterdam, very few persons in Scotland knowing where he was. He waited there for a favourable opportunity either to make his peace with the king, or to raise in Scotland, where he thought he had many friends, an insurrection, which should put him again in possession of his estate. He believed a fair occasion offered for an insurrection after the death of Charles II, knowing that the duke of York, who was to succeed, was beloved neither in Scotland nor England. For though, in both kingdoms, the government, and all the public offices, were in the hands of the Tories, the earl of Argyle imagined, that if by his credit he could raise an army in Scotland, all the Presbyterians would list under his banner, and then his party would be much superior to the king's. Projects of the earl of Argyle and the duke of Monmouth. Ibid. Burnet, p. 629.

Whilst he was full of these thoughts, the prince of Orange, foreseeing the king his father-in-law would soon desire the States to deliver up the duke of Monmouth, advised him to retire elsewhere. The duke followed his advice and withdrew to Brussels. But fearing he was not safe there, and that the court of Spain would think proper to sacrifice him to king James, he repaired privately to Amsterdam, where he had frequent conferences with Argyle. They had nothing ready to make an attempt, which might have the least ap- Burnet, p. 624.

(e) Burnet says the bill stuck with the lords and would not go down, they having no mind to reverse and condemn past proceedings, p. 640.

James II. pearance of success. They were both without money, and  
 1685. not sure of friends in England or Scotland to second their  
 Id. p. 629. projects. Mean while, the earl of Argyle meeting at Am-  
 sterдам with a rich widow, who lent him ten thousand  
 pounds, this unexpected supply so encouraged him, that he  
 resolved to make a descent in Scotland, where he hoped, that  
 his name, his credit, and the cause he intended to support,  
 would procure him friends enough. But the duke of Mon-  
 mouth was not in so favourable a situation. He flattered  
 himself, that the enmity of the Whigs against the duke of  
 York would revive, when they should see one at the head of  
 their party; but he had yet no private correspondence, with  
 such of the nobility and gentry, whose credit would be able  
 to support him, and moreover he wanted money. However,  
 the earl of Argyle perceiving how advantageous it would be to  
 him, that the duke of Monmouth should make an invasion in  
 England, whilst he should himself do the like in Scotland,  
 Id. p. 630. so managed that at length he persuaded him to try the same  
 fortune, though not till after the duke had long resisted his  
 solicitations. Indeed, as the duke's affairs then stood, it was  
 a rash undertaking, especially as it was to be executed when  
 the parliament was sitting. But some of his friends, very un-  
 fit to manage such a design, and who were tired with living  
 in exile, did all they could to encourage him (f). He there-  
 fore promised Argyle, that as soon as he should hear of his  
 landing in Scotland, he would not fail to make a descent in  
 England.

He lands in Upon this positive promise, the earl of Argyle sailed with  
 Scotland. three small ships laden with arms for five thousand men,  
 Id. p. 631. having with him some German officers and some soldiers  
 Gazettes. lifted in Holland. He arrived the 5th of May before Orkney  
 Echard. III. p. 749. in the north of Scotland, and sent his secretary on shore for  
 intelligence how the country stood affected. But the secre-  
 tary being seized and brought to Edinburgh, the earl found  
 nothing was to be done in those parts. Wherefore he put to  
 May 20. sea again, and landed in the West-Highlands, at a place  
 called Dunstafnage, a ruinous castle formerly his own. Here  
 he left his arms and ammunition, and then published two de-  
 clarations mentioned by the king in his speech to both houses.

He publishes  
 two decla-  
 rations.

Kennet.

p. 425, 426.

(f) Particularly Wade, Ferguson,  
 but chiefly the lord Grey, and the La-  
 dy Wentworth, who followed him to  
 Brussels desperately in love with him.  
 And both he and she came to fancy,

that he being married to his duchess  
 while he was indeed of the age of con-  
 sent, but not capable of a free one, the  
 marriage was null; so they lived toge-  
 ther. Burnet, p. 630.

Where-



Whereupon the parliament of Scotland now sitting, passed an **James II.**  
act, That all the subjects of Scotland should renew the oath **1685.**  
of allegiance, and swear to assert the royal prerogatives when-  
ever they should be required, upon pain of banishment or im-  
prisonment.

Act of the  
Scotch par-  
liament.

The King, as we have seen, communicated to the parlia-  
ment of England but one of Argyle's declarations: however  
presently after he imparted also the other. Whereupon both  
houses came to this resolution. That they would assist his  
majesty with their lives and fortunes, against the earl of Ar-  
gyle and his adherents, and all other traitors whatsoever.  
The king very graciously thanked them, and in his answer to  
the lords, renewed his former promises.

Echard.  
III. p. 751.  
The parlia-  
ment of Eng-  
land resolve  
to stand by  
the king.  
Kennet.

The committee appointed by the house of commons for  
the affairs of religion, and which, no doubt, consisted of the  
most zealous churchmen, considered the earl of Argyle's in-  
vasion in Scotland, as an outrage committed by all the Pres-  
byterians of both kingdoms. Though the particulars of this  
invasion could not yet be known, except only that the earl of  
Argyle was landed in Scotland, and had published two decla-  
rations, the committee took occasion to draw up two votes,  
namely, 1st, That it is the opinion of the committee, that  
this house will stand by his majesty with their lives and for-  
tunes, in defence of the reformed religion of the church of  
England, as it is by law established. 2dly, That an humble  
address be presented to his majesty, to desire him to issue out  
a proclamation, to cause the penal laws to be put in execution  
against all Dissenters whatsoever. This last vote was the  
pure effect of the committee's prejudice, founded on the king's  
promise, that he would support and preserve the church of  
England to the utmost of his power. Probably, they ima-  
gined, the king, though a Papist, was ready to proceed with  
vigour against all the enemies of that church. But the pre-  
vious question being, Whether the question should then be  
put for the house to agree with the committee? it was car-  
ried in the negative. It was considered, 'twould not be  
agreeable to the king to cause the penal laws to be executed  
against all dissenters, and consequently against those of his  
own religion. On the other hand, it was not proper to con-  
fine the order to the Presbyterians in particular, without  
mention of the Papists. For these reasons, the house, after  
mature deliberation, came to the following resolution, nemi-  
ne contradicente, "That this house doth acquiesce, and en-  
tirely rely, and rest wholly satisfied on his majesty's gra-  
cious word, and repeated declaration, to support and de-  
fend

p. 425.  
The king  
confirms his  
promises.

p. 427.  
Project of  
the commit-  
tee of reli-  
gion against  
the Presby-  
terians, is  
rejected.  
Echard.

III. p. 751.  
May 27.  
Kennet.  
p. 441.

James II. " send the religion of the church of England, as it is now  
1685. " by law established, ' which is dearer to us than our lives."

— This vote clearly shows, that though the commons and Tories in general expressed a very great zeal for the king's interest, they had no intention to countenance the Romish religion, though some of their enemies have been pleased to draw such an inference.

Pursuant to this resolution, when the revenue-bill was ready, and the king come to the house of peers to give the royal assent, the speaker of the commons made the following speech.

The speaker's speech to the king. May 30. Kennet. p. 427. Echard. q. III. p. 752.

" Most gracious sovereign,  
" **W**E, the knights, citizens, and burgessees of the house of commons assembled in parliament; do present to your majesty the revenue you was pleased to demand at the opening of this parliament, wherein we proceeded with as much speed, as the forms of passing bills of that nature would admit. We bring not with it any bill for the preservation or security of our religion, which is dearer to us than our lives. In that we acquiesce entirely and rest wholly satisfied in your majesty's gracious and sacred word, repeated declarations, and assurance to support and defend the religion of the church of England, as it is now by law established. We present this revenue to your majesty, without the condition of any additional, appropriating, or tacking clauses whatsoever. And we humbly beseech your majesty to accept of it, and along with it our hearty prayers, That God Almighty would bless you with a long life, and happy reign to enjoy it."

Gazettes. No. 2039. Upon the passing this bill, his majesty was pleased to make this speech to both houses.

" My lords and gentlemen,  
" **I** Thank you very heartily for the bill you have presented me this day; and I assure you; the readiness and cheerfulness that hath attended the dispatch of it, is as acceptable to me as the bill itself. After so happy a beginning, you may believe I would not call upon you unnecessarily for an extraordinary supply: but when I tell you, that the stores of the navy and ordnance are extremely exhausted; that the anticipations upon several branches of the revenue are great and burthenfome; that the debts of the king my brother, to his servants and family, are such as deserve compassion; that the rebellion in Scotland, without putting  
" more



“ more weight upon it than it really deserves, must oblige James II.  
 “ me to considerable expence extraordinary: I am sure such 1685.  
 “ considerations will move you to give me an aid to provide  
 “ for those things, wherein the security, the ease and happi-  
 “ nefs of my government are so much concerned. But above  
 “ all, I must recommend to you the care of the navy, the  
 “ strength and glory of this nation, that you would put it  
 “ into such a condition, as may make us considered and  
 “ respected abroad. I cannot express my concern upon this  
 “ occasion more suitable to my own thoughts of it, than by  
 “ assuring you, I have a true English heart, as jealous of the  
 “ honour of the nation as you can be; and I please myself  
 “ with the hopes, that by God’s blessing, and your assistance,  
 “ I may carry the reputation of it yet higher in the world  
 “ than ever it has been in the time of any of my ancestors.  
 “ And as I will not call upon you for supplies, but when  
 “ they are of public use and advantage, so I promise you,  
 “ that what you give me upon such occasions, shall be ma-  
 “ naged with good husbandry; and I will take care it shall  
 “ be employed to the uses for which I ask them.”

If ever there was occasion to repeat his promises concern-  
 ing religion, and the nation’s liberties, it was doubtless im-  
 mediately after receiving from the house of commons so real a  
 proof of their zeal, founded, as the speaker said, upon their  
 confidence in the king’s word. But it was by no means proper  
 for the king to renew a promise he did not intend to per-  
 form. When this promise had procured him what he desired,  
 it was entirely forgot; and if it was sometimes mentioned  
 among the king’s adherents, it was only to palliate the viola-  
 tion of it, as will hereafter appear.

The very moment the king thanked the commons for  
 their noble present, they had occasion to perceive their error,  
 in not appointing the uses to which such an immense revenue  
 should be applied. It manifestly appeared by the king’s  
 speech, that he did not pretend to employ this revenue solely in  
 the usual expences of the government, since at that very time,  
 he demanded a great and extraordinary aid, for all the other  
 things enumerated by him, and even for the maintenance of  
 the navy, as if his revenue had been too inconsiderable to sup-  
 ply his occasions.

In short, it must appear strange, that James, for having  
 gained one naval victory, should effect to exalt himself above  
 all his predecessors. This was a vanity which did not seem  
 to become him. Besides, it will hereafter be seen, that no-  
 thing was farther from his thoughts than the design of pro-  
 moting

James II. moting the honour and reputation of the English nation.

1685. Nevertheless, the commons, highly pleased with the king's speech, granted him an additional duty of excise upon wines and vinegar, with a further imposition upon sugar and tobacco.

Statute-b.  
I James II.

The earl of  
Argyle's  
proceedings.  
Burnet.  
p. 631, &c.  
Kennet.  
Echard.  
III. p. 753.

Whilst these things passed in England, the earl of Argyle was endeavouring to strengthen himself in Scotland, dispersing declarations, and sending letters upon letters to his relations and friends. But though he was in his own county of Argyle, and the inhabitants had been formerly his vassals, all he could do was to assemble two or three thousand men. With this little army he crossed over, and landed in the Isle of Bute. But within few days, having notice that a great number of forces, under the command of the earl of Dumbarton, the duke of Gordon, the marquis of Athol, the earl of Arran, and others, were advancing towards him from several parts, in order to surround him, he was forced to shift from island to island, to avoid them. This he could easily do, by means of his three ships, and several small boats, till he heard that three men of war, and some frigates, would soon come and attack him. Then, he marched into Argyleshire towards Inverary, ordering his vessels and boats to come and join him. But they were hindered by contrary winds from doing it soon enough. So, finding himself surrounded on all sides, and considering that few came to join him, and that his troops began to desert, he gave out, that he intended to attack the marquis of Athol, who was at Inverary. But at the same time, he ordered the old castle of Ellengreg to be fortified in the best manner possible, and leaving his cannon there, with a garrison of one hundred and eighty men, marched into Dumbartonshire. The same day, the king's ships came up to the castle, with intent to batter it, but the castle surrendered upon the firing of the first gun. By which the earl lost five thousand arms, five hundred barrels of powder, and all his cannon, besides his three ships, which were also taken at the same time. This loss so discouraged Argyle, as well as his officers, that from that moment they thought only of means to escape. But as, after the loss of their ships, there was no way to fly out of Scotland, they retired from place to place with all possible speed, even to the swimming of rivers. But they were so hotly pursued, that they were forced at length to disperse into small parties (g), in order to save some, in

He sustains a  
great loss.

(g) It was then generally believed, Cockram, one of those that came over with Argyle. For he undertaking to provide



in case the rest should have the misfortune to be over taken. James II. At last, not to be tedious, I shall say in two words, the earl of 1685. Argyle having received a wound in his head, was obliged to quit his horse, and run into the water up to his neck to save himself. In this posture he was taken by a countryman, who threatened to knock him down if he would not yield (h). <sup>He is taken. June 17.</sup> This happened on the 17th of June, twenty-eight days after his first landing in Scotland. He was not suffered to languish long. For, being brought to Edinburgh with great ignominy, his head was cut off in a few days, and placed on the Toll-<sup>and be-headed. June 30.</sup> Booth of the city (i). Rumbold, one of his friends and confidants, was likewise taken and executed with several <sup>Burnet. p. 632.</sup> others (k). Thus the king, without having contributed scarce any thing to it, saw himself delivered from the danger which threatened him from Scotland.

The Duke of Monmouth, pursuant to his promise to Argyle, sailed out of the Texel the 24th of May, with a small <sup>The Duke of Monmouth sails from Holland. Echard. III. p. 757. Kennet. p. 428. Burnet. p. 630, 640.</sup> man of war of thirty-two guns, and two other vessels. He met with such contrary winds, that he was nineteen days at sea, though without being discovered by the king's ships which waited in the Channel to intercept him, the king hav-

provide guides to conduct them safely into Galloway, and either mistaking the way, or designedly misleading them, he carried them into a bog, where they lost their horses and baggage. Kennet, p. 426.

(h) The earl presented a pistol to the countryman, but it missed fire. Whereupon the other gave him a blow on the head, which so stunned him that he fell, and in sinking cried out, "Unfortunate Argyle! Kennet, p. 427.

(i) Pursuant to the sentence passed three years before, which made his death to be looked on as no better than murder. He justified all he had done; for he said, he was unjustly attainted: and that had dissolved his allegiance. He complained of the Duke of Monmouth much, for delaying his coming so long after him, and for assuming the name of king, both which he said was contrary to their agreement at parting. Burnet, p. 632.

(k) Ailoffe and Rumbold were taken, who, though Englishmen, had chose rather to follow Argyle than Monmouth. Rumbold was the person that dwelt in Rye-House; where it was pretended the plot was laid for

murdering the late and present king. He denied the truth of that conspiracy, He owned that he had heard many propositions at West's chambers about killing the two brothers, and upon that he had said, it could have been easily executed near his house; upon which some discourse had followed how it might have been managed. But he said, it was only talk, and that nothing was laid or so much as resolved on. He said he was for kingly government, but did not believe that God had made the greater part of Mankind with saddles on their backs, and bridles in their mouths, and some few bootied and spurred to ride the rest. When Ailoffe was brought to London and examined by the king, he refused to discover any thing. Whereupon the king said, "Mr. Ailoffe, you know " it is in my power to pardon you, " therefore say that which may de- " serve it." He answered, as it is said, " Though it is in your power, it is not " in your nature to pardon." He was nephew by marriage to the old earl of Clarendon. But that could not save him. Burnet, p. 633.

**James II.** had so early notice of his design, that Skelton, his Majesty's envoy at the Hague, had obtained an order from the States to arrest him. For which reason, the duke departed sooner than he intended. At last, he landed the 11th of June, with about eighty followers, in the West of England, near Lyme, and the same day repaired to the town, where he was received without opposition. Here he published a declaration against the king. As this declaration is well known, I shall only mention the most material things in it (1).

His declaration.

Life of King

James II.

p. 102.

Kennet.

p. 428.

Echard.

III. p. 758.

In the preface he said, "That government was originally instituted by God, and this or that form of it chosen and submitted to by men, for the happiness and security of the governed, and not for the private interest, and personal greatness of those that rule, That the government of England was, above all others, happy in its primitive form, whereby the prerogatives of the crown, and the privileges of the subjects were so far from justling one another, that the people's rights tended to render the king great, and the prince's prerogatives were in order to the subjects protection and safety. But that all the boundaries of the government had of late been broken, and nothing left unattempted, for turning the limited monarchy into an absolute tyranny."

Then the duke proceeded to impute to the king all the mischiefs in the reign of Charles II, as, "the burning of London, the alliance with France, the two wars with Holland, the Popish plot, Godfrey's murder, the protestant-plot, the suborning witnesses to swear the most zealous patriots out of their lives, the hiring of villains to assassinate the earl of Essex, and causing others to be clandestinely cut off, the frequent prorogations and dissolutions of the parliaments."

He next proceeded to what the duke of York had done since he assumed the title of king, as "the avowing himself of the Romish religion; his publishing two proclamations, one whereof required the collecting of the customs, and the other continued that part of the excise which was to expire at the king's death; his advancing those to the bench that were the scandal of the bar, and constituting those very men to declare the laws who were branded

(1) It was entitled, "The declaration of James duke of Monmouth, and the noblemen, gentlemen and others, now in arms for the defence and vindication of the Protestant religion, and the laws, rights and

"privileges of England." It was long, (says Burnet) and ill penned: full of black and dull malice; it was plainly Ferguson's stile, which was both long and fulsome, p. 641.



“ in parliament for perverting them; his causing juries to be **James II.**  
 “ packed, false returns to be made, and new illegal charters **1685.**  
 “ to be granted, in order to have a parliament that should,  
 “ instead of preserving the people’s liberties, establish his ar-  
 “ bitrariness, and confirm the subjects thralldom.” He de-  
 clared moreover, “ That he did not take up arms to revenge  
 “ any personal injuries, but solely for vindicating his coun-  
 “ try’s religion and laws.” He did not fail, however, to  
 “ affirm, “ That his mother was lawful wife of Charles II.”  
 In conclusion, he accused the king of poisoning the late king  
 his brother. The rest of the declaration contained the usual  
 protestations and invitations in papers of this nature.

Though the facts contained in this declaration cannot be  
 looked upon as proofs that the king was guilty of what the  
 duke of Monmouth laid to his charge, they may serve how-  
 ever for proof, that the king from that time was accused of  
 them, at least by some men, and that these accusations were  
 not invented after his fall.

The king having communicated to both houses the **Act of at-**  
 duke of Monmouth’s landing at Lyme, they presented an **tainder**  
 address to him, assuring him of their zeal and assistance, and **against**  
 immediately after the commons proceeded to a bill of attain- **Monmouth,**  
 der against the duke of Monmouth (m). At the same time **June 13.**  
 they desired his majesty to issue a proclamation, promising a **Gazettes,**  
 reward of five thousand pounds to any that should bring in the **No. 2042.**  
 duke dead or alive. The bill of attainder was dispatched by **Kennet,**  
 the commons in two days, and in one by the lords. **Echard,**  
**Burnet.**

The 16th of June the king came to the house of peers, **Acts passed,**  
 and gave the royal assent both to this bill and the money- **Gazettes,**  
 bills before-mentioned. Two days after he sent a message **N. 2043.**  
 to the commons, to acquaint them, that he judged it neces- **Kennet,**  
 sary for the members to be present in their respective coun- **p. 430.**  
 ties, and therefore designed there should be an adjournment  
 in a few days; desiring there might be a good fund for a pre- **The King**  
 sent sum of money, to answer the immediate charge his Ma- **demands**  
 jesty must be at, on account of the duke of Monmouth’s re- **money.**  
 bellion in the West. Upon this message, the commons voted  
 a supply of four hundred thousand pounds for the king’s present  
 extraordinary occasions.

The two houses were so expeditious to answer the king’s **Acts passed.**  
 desires, that on the 27th of June there were twelve bills **Kennet,**  
 ready, most of them for the king’s benefit; and on the 2d of **p. 430.**  
**Echard.**  
**III. p. 761.**

(m) The commons, in their address, “ That ungrateful rebel.”  
 called the duke of Monmouth——

July

James II. July, four more (n), besides private bills. That day, the  
 1685. parliament was adjourned to the 4th of August. But the  
 lord keeper gave notice, that the king did not intend there  
 should be a session, but that the members about London  
 should meet and adjourn themselves as there should be occa-  
 sion, till winter, or till the king should appoint the time by  
 proclamation. Thus ended the first session of this parliament,  
 having done in six weeks what no other ever did in many  
 months (o).

The Duke of  
 Monmouth  
 advances.  
 Kennet,  
 p. 431.  
 Burnet.  
 Echard.  
 III. p. 763.

He comes to  
 Taunton.  
 Echard.  
 Ibid.

The duke of Monmouth's followers, who were not above  
 eighty-two when he landed at Lyme, increased to two thou-  
 sand in three or four days. This made him hope they would  
 continually increase as he advanced into the country. Where-  
 fore, he departed from Lyme the 15th of June, and came  
 the same day to Axminster. He thereby prevented Christo-  
 pher Monk duke of Albemarle, who with four thousand of  
 the militia, intended to go and besiege him in Lyme. The  
 duke of Monmouth being come to Axminster, disposed his  
 troops in such manner, that Albemarle, instead of attacking  
 him, thought proper to retreat, perceiving his militia-men  
 had no inclination to do their duty. Albemarle's retreat  
 enabled the duke of Monmouth to march to Taunton, where  
 he arrived the 18th, and was received with loud acclamations.  
 His army being considerably increased during a five or six days  
 stay at Taunton, he imagined his affairs were in a prosperous  
 way, and that all the country would join him. In this ex-  
 pectation he called a council, where it was resolved he should  
 assume the title of king. He had already insinuated in his  
 declaration, that he was lawful son of Charles II, and there-  
 by shown, that he pretended to the crown. But, in all  
 likelihood, he would not have taken the title so soon, had  
 not those about him (p) represented to him, that appearing  
 in arms against a king actually on the throne, he must be  
 accounted a rebel as long as that king's right was acknow-  
 ledged: that therefore, neither the nobility nor people could have  
 any pretence to join him; whereas by taking upon him the  
 royal style, he would have the same advantage as James with  
 regard to right. Probably, there was no occasion to use many  
 other arguments to prevail with him. What he had intimated

(n) One was, for erecting a new  
 church, to be called the parish of St.  
 James, within the liberty of West-  
 minster.

(o) The ending of this session, says  
 Burnet, was no small happiness to the

nation; such a body of men being  
 dismissed with doing so little hurt,  
 p. 641.

(p) Particularly Ferguson. See  
 Kennet, p. 431. Note (c).



in his declaration, plainly shows, that this was the end he <sup>James II.</sup> proposed to himself. The only thing therefore was to con- <sup>1685.</sup> sult about the most proper time for it. In short, pursuant to the advice of those he consulted, he was proclaimed king at Taunton the 20th of June, by the name of James II.

<sup>He takes the title of king,</sup>

He began his pretended reign with three proclamations. By the first, he promised the sum of five thousand pounds to any that should bring the duke of York dead or alive. By the second, he declared the parliament now sitting a seditious assembly, and gave power to any that would to lay hold of the members as rebels and traitors, if they did not separate before the end of June. The third was to declare the duke of Albemarle a traitor, who lay within six miles of Taunton with his militia-men to attack him, if he found opportunity.

<sup>He publishes three proclamations. Kennet, p. 431. Echard, III. p. 765.</sup>

The 21st of June the duke marched to Bridgewater. He was received there as at Taunton, especially as his army was increased to five thousand men, and might have been more numerous, had he been able to arm those that offered to serve him. Besides arms he wanted also good officers, scarce any but the meanest of the people having joined him. After causing himself to be proclaimed in Bridgewater, and his three proclamations to be read, he marched for Bristol, where the inhabitants were inclined to receive him, had they not been awed by the duke of Beaufort their governor. He advanced, however, within three miles of the city, at the instance of some Bristol men, who assured him, he would be received in spite of the governor and the garrison. But in the mean time, he had notice that the king's forces were advancing, which made him alter his resolution of attempting Bristol to that of retreating to Bridgewater. He marched therefore towards Bath, and after vainly summoning that city to surrender, he beat up one of the king's quarters, at Philip's-Norton, where lay a troop of horse, which were entirely defeated (a). From thence he advanced to Frome, where he met with a cheerful reception. But unhappily for him, the king's party had found means a few days before to disarm all the inhabitants, so that he was disappointed, his chief aim being to seize those arms for such of his men as wanted them. At Frome he heard of the earl of Argyle's defeat, which threw him into a great consternation. However, he resolved to pursue his march, and return to Bridgewater.

<sup>He marches to Bridgewater,</sup>

<sup>and is proclaimed there. He marches towards Bristol.</sup>

<sup>Hears of the advance of the king's army, and retreats to Bridgewater.</sup>

<sup>He receives the news of Argyle's defeat.</sup>

(a) Henry Fitz-Roy, duke of Graf- Kennet, p. 431.  
 narrowly escaped with his life.

James II. 1685. Whilst these things passed in the West, the king was preparing at London, with all possible diligence, for his defence against an enemy who could not but make him extremely uneasy. But he had not many regular troops, and those dispersed in several parts of the kingdom. This obliged him to raise the militia, particularly in the western counties, till the arrival of the six English and Scotch Regiments which were to come from Holland. On this occasion, the prince of Orange, his son-in-law, sent monsieur Bentinck, with an offer of his person to head his army: but the king did not think proper to accept it. Mean while, as he had no great confidence in the militia, he sent down his guards, and all the regular troops he could assemble, and formed a little army of two thousand foot, and seven hundred horse and dragoons. He gave the command to Lewis Duras, earl of Feversham, brother of the marshals Duras and de Lorge, and nephew to the late Mr. de Turenne. With these few troops, the earl of Feversham encamped at a place called Sedgemore near Bridgewater, whilst several parties of militia of the neighbouring counties lay about him, under the command of the dukes of Beaufort, Somerset, Albemarle, and the earl of Pembroke.

The duke of Monmouth attacks the king's army. July 6. Kennet. p. 431. The duke of Monmouth, who was come to Bridgewater, looking upon himself as besieged, and considering that the king's forces daily increased, whilst his own began to desert, held a council of war, wherein it was resolved to march in the night, and surprize the earl of Feversham, who was encamped that day at Sedgemore, and according to the report of the spies, little expected to be attacked. Pursuant to this resolution the duke began his march about eleven at night with profound silence, and within two hours fell in with Dunbarton's regiment, which, lying in an advanced post, gave the alarm to the royal army, and by that they had time to draw up and receive their enemies. The particulars of the battle, which was fought about an hour after, are not well known. Thus much is certain, the duke of Monmouth's horse, commanded by the lord Grey, behaved very ill (b), though superior to the king's in number, and were routed at the first charge. The duke of Monmouth, in the head of the foot, long fought with great bravery. But being deserted by his own, and attacked by the king's horse, his army was at last forced to take to flight. The loss of this battle was

(b) They were mounted on ordinary marsh mares and colts, that would not stand the noise of drums and guns. Kennet, p. 431.



ascribed to the little experience or cowardice of the lord Grey, James II. who commanded the horse, and was even suspected of treachery. What confirmed this suspicion was, that being made prisoner, he readily obtained the king's pardon. It is said moreover, that when he had so ill performed his duty, instead of endeavouring to rally the horse, he rode up to the duke of Monmouth and told him, "all was lost, and it was more than time to shift for himself (c)." 1685.

This battle was fought the 6th of July, at break of day. There were slain on the duke of Monmouth's side three hundred men on the spot, a thousand in the pursuit, and as many taken prisoners. The duke retiring out of the fight, could hardly rally fifty horse to secure his retreat. But these being quickly dispersed, he was obliged to fly on foot, accompanied only with a German count, whom he had brought with him from Holland. The lord Grey was taken on the morrow, and, the day after, the duke of Monmouth was found in a ditch covered with fern, with some green pease in his pocket. He is taken and sent up to London, July 8. Probably he had eaten nothing else for two days. He was brought to the lord Lumley, who immediately conveyed him to London.

No sooner was the duke taken, but he believed himself lost, and yet he retained some hopes that the king would be moved by his submission and repentance, and the queen dowager would intercede for him. In this belief, he wrote to the king for pardon, in the most submissive terms he could devise, and which he thought most apt to move his compassion. He writ also to the queen dowager, who really interceded for him, and prevailed with the king to see the unfortunate duke. She made no doubt, that since the king had consented to see him, he intended to pardon him; but she was mistaken. The duke being brought to the king's presence, threw himself at his feet, and begged his life in a very submissive or rather abject manner. The king, after asking him some questions, made him sign a declaration, whereby he owned, that the king his father assured him, he was never married to his mother. The duke begs his pardon. Kennet, p. 433. This done, the king told him, his crime was of too great a consequence to be forgiven, and therefore he must prepare to die. The queen, who was present, is said to have insulted his misfortune in an unmerciful manner. who consents to see him. The duke begs his pardon. Kennet, p. 433. the king denies it.

(c) But, after all, it seems there was no ground for suspecting him of treachery. And as for his being pardoned, it was done, that the earl of Rochester might enjoy his estate, which could not be without sparing that lord's life, since his estate was entailed. See Kennet, p. 432. Note. Burnet, p. 646.

James II. manner. The duke seeing no hopes left, rose from the king's  
1685. feet with an air of bravery, which would have better become

Welwood.  
P. 147.

him when he first came into his presence, and was carried to the Tower to prepare for death. The king's and queen's behaviour on this occasion was thought very strange, princes not being used to admit criminals to their presence, but when they design to grant them a pardon. I do not find in any historian, that the duke was proceeded against in the usual forms, so, probably, he was condemned by the king alone.

Echard.

III. p. 772.

Burnet.

P. 645.

Till his execution, the king ordered Turner, bishop of Ely to attend him, and prepare him to die. The duke writ once more to the king for pardon, or at least for a longer time, and desired him to send him Dr. Tennison (d) or any other divine. The king denied the two first articles of his request, and appointed Ken, bishop of Bath and Wells, to go and acquaint him, that he must die the next morning.

He is pre-  
pared for  
death.

In the morning, July the 15th, Dr. Tennison and Dr. Hooper were brought to him, and attended him till the last hour of his life. By their exhortations they persuaded him to give it in writing, that the king his father told him, he was never married to his mother. He confessed also, that his invasion was a sin, but would never own it a rebellion. There was another point about which the two divines could not receive from him any satisfaction, namely, his living with the lady Herriot Wentworth, tho' he had a duchess of his own, and his pretending to be lawfully married to her before God, alledging, that his first marriage was null, as being too young when he gave his consent. All the pains taken by the two doctors to convince him of the falshood of this opinion were fruitless, nay, he chose rather to deprive himself of the communion, than own his engagements with that lady to be unlawful.

He is exe-  
cuted.

When he was on the scaffold, he declared, he died a Protestant of the church of England. But Turner and Ken stopped him, and said, that to be a member of the church of England, he must believe the doctrine of non-resistance. He answered, he could not help it, but he did not believe it, yet he approved the doctrine of the church in all other things. At last, he laid his head on the block, which was not severed from his body until the fifth stroke. Thus died the duke of Monmouth, who had long been the people's idol, and whom James always considered as a very formidable rival. Charles II died very seasonably to free the duke his brother from the

(d) Afterwards archbishop of Canterbury.

uneasiness



uneasiness created him by this competitor. But though James II. had mounted the throne, the duke of Monmouth endangered his crown. Neither the victory at Sedgemore, nor Argyle's defeat in Scotland, could be ascribed to the valour or conduct of the king, but to mere chance, or rather to the direction of providence, which, for the welfare of England, was pleased to use properer means to be more plainly distinguished.

The king being thus freed from his greatest fears, gave himself over entirely to the passion of revenge on those who directly or indirectly had assisted the duke of Monmouth. To that end, the lord chief-justice Jefferies was sent with four judges assistants, into the West, with a special commission of oyer and terminer, to try the late rebels; and major-general Kirk was ordered to attend him with a body of troops, to keep the people in awe. It was not possible for the king to find in the whole kingdom, two men more destitute of religion, honour, and humanity. They were two cruel and merciless tygers, that delighted in blood. I shall relate here but some few of their barbarous actions: for a particular account of all their proceedings would be too great a digression.

At Winchester, the widow of lord Lisle (e), one of king Charles I's judges, was brought before him to be tried. Her crime was the harbouring and concealing Mr. Hickes a Presbyterian minister (f) of the duke of Monmouth's party, though his name was in no proclamation, and one Nelthorp, who was a stranger to her. The jury, not satisfied with the evidence, brought her in not guilty. But Jefferies in great fury sent them out again. They found her not guilty three times: but Jefferies threatening them with an attainder of jury, she was brought in guilty, and executed accordingly, being above seventy years old (g).

At Dorchester, Jefferies, to shorten his work, told thirty prisoners, that if they expected any favour, they should plead guilty. But as they did not care to take that course, he condemned twenty-nine, who were immediately executed.

In another place, two hundred persons being indicted, Jefferies positively promised a pardon to such as should plead guilty, and of the two hundred, he ordered fourscore to be hanged.

(e) He was one of Cromwell's lords, and commissioner of the great seal.

(f) Brother of the late Dr. Hickes, dean of Worcester.

(g) All the favour the king would grant her, was to change her sentence from burning to beheading. State Trials, Tom. IV. p. 129.

James II. In fine, not to enlarge on such a scene of horror, it suffices  
 1685, to say, that Jefferies condemned five hundred persons, where-  
 of two hundred and thirty were executed, according to the  
 lowest computation (h), and their quarters set up in the  
 highways. Jefferies himself gloried in this barbarity, and  
 boasted, that he had hanged more men than all the judges of  
 England since William the Conqueror. And yet he would  
 have carried his cruelty farther, had not many purchased his  
 favour with their estates. One Mr. Prideaux (i) alone gave  
 him fourteen thousand pounds to save his life. As for those  
 that had not money enough to buy pardons at his price, they  
 were either hanged, or cruelly whipped, or sold for slaves  
 into the American plantations.

Echard.  
 III. p. 775.

And of  
 Kirk.  
 Ibid.  
 Kennet.  
 p. 434.  
 Burnet.  
 p. 647.

Kirk was not behind Jefferies either in cruelty or insolence, Immediately after the duke of Monmouth's defeat, being sent to Taunton, he caused nineteen persons, by his own authority, without any trial or process, and without suffering their wives or children to speak with them, to be hanged, with pipes playing, drums beating, and trumpets sounding. It was this doubtless, that made him worthy to be an assistant to Jefferies.

In the same town of Taunton, Kirk having invited his officers to dinner, ordered thirty condemned persons to be hanged whilst they were at table, namely, ten in a health to the king, ten in a health to the queen, and ten in a health to Jefferies. But one action he committed in another town is beyond all imagination. A young girl throwing herself at his feet to beg her father's (k) life, he drew her in to prostitute herself to him, with the promise of granting her request. But having satisfied his brutal lust, he was so inhuman, as out of the window, to present the credulous girl with the sight of her father hanging on the sign-post. This sad spectacle so affected the poor girl, that she fell distracted.

Father  
 Orleans re-  
 futed.

Father Orleans, who writ from the mouth of James II, not being able to deny these barbarous executions, endeavours to excuse them two ways. He says first, that the king was informed of them too late to prevent them, and that the great services performed by Jefferies and Kirk, prevailed with him to spare them (l). He says, in the next place, that the king made

(h) Burnet says above six hundred were hanged, p. 648.

(i) Of Ford Abbey in Somersetshire.

(k) Some say it was her brother's.

See Kennet, p. 434. and Echard, T. III. p. 775.

(l) Burnet assures us, that the king had a particular account of all Jefferies's proceedings writ to him every day



made amends for these injustices, as far as lay in his power, James II. by the general pardon he afterwards granted. But it is easy 1685. to see, how vain these excuses are, if it is considered, that when Kirk was charged with these cruelties, he answered, that Jefferies and himself acted far short of the king's instruc- Kennet. tions. Again, the king was so little displeased with Jefferies's P. 434. conduct, that at his desire he made him lord-chancellor (m), Echard. III. p. 775. the lord-keeper North dying while the chief-justice was ex-R. Coke. ercising his cruelties in the West. As for the general pardon, it was not published till several months after all these executions, when there were no more guilty to be found. The court must have believed, that very few could have the benefit of the pardon, since a company of young girls, from ten to twelve years old, were inserted by name, who with chaplets of flowers on their head, had presented a bible to the duke of Monmouth, at his entry into Taunton.

It was not only in the Western counties that the king gave Several ex- sensible proofs of his revengeful temper. The city of Lon- ecutions in don was witness also of several executions in October; among London. others, of Elizabeth Gaunt, who was publickly burnt for Of Eliza- harbouring one of the duke of Monmouth's adherents (n), beth Gaunt. State Trials. Six men were hanged at Tyburn as traitors, for crimes of the IV. p. 130. like nature, and what is more strange, without any previous &c. trial.

But the execution that made most noise, was that of alder-Of Alder- man Cornish. This man, who was sheriff of London at the n. an Cor- time of the discovery of the Popish plot, had been very ac- nish. Ibid. tive on that occasion, which was grown an unpardonable crime Kennet. in the present reign. Cornish, whose name had hardly been P. 438. mentioned in the Rye-plot, not suspecting any thing, and fol- Burnet. lowing his profession, was seized on Tuesday the 13th of Oc- P. 651. tober, and hurried to Newgate without being allowed the use Echard. of pen, ink, and paper. The next Saturday evening, he III. p. 776. had notice that he was indicted of high-treason, and that his trial was to be on Monday morning. On the morrow, he October 19. sent a petition to the king for a longer time, alledging, that

day. And he took pleasure to relate them in the drawing-room to foreign ministers, and at his table, calling it Jefferies's campaign. Dykvelt, the States ambassador, told Burnet, that the king talked so often of these things in his hearing, that he wondered to see him break out into those indecencies, p. 648.

(m) And created him baron of Wem in Shropshire.

(n) The villain, upon hearing that the king would sooner pardon the rebels than those that harboured them, by an unheard of baseness, went and delivered himself, and accused her that harboured him, while she was looking for an opportunity of sending him out of the kingdom. Upon the Evidence of this infamous witness, the judge charged the jury to find her guilty. Burnet, p. 649.

James II. he did not even know wherein consisted the treason he  
 1685. was accused of. The king referred his petition to the judges,  
 — who absolutely denied his request. He was charged with  
 conspiring against king Charles II, with the Lord Ruffel, and  
 the rest who had been executed for that affair, and con-  
 demned upon the evidence of the same witnesses, though he  
 showed, in their depositions, manifest contradictions, and  
 visible improbabilities. But it was resolved to revenge the  
 death of those who suffered for the Popish plot, upon such as  
 had been most active against the Papists. Cornish was ex-  
 ecuted as a traitor, the 23d of October. But the parliament,  
 State Trials. IV. p. 160. in the year 1688, reversed the sentence, as well as those of  
 some others, who had unjustly suffered in the beginning of  
 this reign.

Of Bateman The last that died for the Protestant plot, was Charles  
 the Surgeon. Bateman, a noted surgeon, who was accused of holding se-  
 Dec. 18. veral seditious discourses at that time against the government.  
 Ibid. p. 162. But many people believed, his chief crime consisted in his  
 Echard. III, p. 780. compassion to Titus Oates, having constantly attended him  
 after his cruel scourgings, and used all his skill to cure his  
 wounds. This man, who did not expect to be accused,  
 grew distracted during his imprisonment, and the court was  
 so well satisfied of it, that his son was permitted to make his  
 defence for him. But his condition did not prevent his be-  
 ing condemned and executed.

The king's flourishing condition. The king was then in a flourishing state. His two greatest  
 enemies were destroyed, and by his revenge upon those that  
 had offended him, as well in his own as in his brother's reign,  
 he had struck such a terror into the whole kingdom, that no man  
 dared so much as to think of resisting him. The Whigs were in-  
 tirely humbled, the Tories were triumphant, and the doctrine  
 of passive-obedience and non-resistance was openly preached,  
 as an essential article of the faith of the church of England.  
 The king had a parliament, which sought only to give him  
 marks of their zeal, and ever ready to supply him with mo-  
 ney for all extraordinary occasions, without his being obliged  
 to meddle with his revenue. His army greatly contributed  
 to make him feared, and keep the people in awe. Scotland  
 was entirely subdued, and the managers of the affairs of that  
 kingdom seemed only to mind the enlarging of the preroga-  
 tive royal. As for Ireland, it will presently be seen, that he  
 had not stayed till now to put that kingdom in the state he  
 desired. In fine, the princes of Europe considering him as a  
 monarch able to incline the balance to which side he pleased,  
 made,



made, as I may say, their court to him, either to gain him, James II. or at least to hinder him from turning against them. 1685.

What therefore did James II want to render his happiness complete? One thing, which affected him more than all the rest, but which he could not hope to obtain, without hazard-<sup>He forms new projects.</sup> ing all his other advantages. This was, to make all his subjects Papists, or at least, to force them to pretend to be so. But this was not easy to be accomplished, by reason of the great superiority of the number of the Protestants in England and Scotland. Nevertheless, he attempted it, imagin-<sup>Kennet. p. 434.</sup> ing, that the opportunity was too favourable to be neglected. But as he used at first very gross artifices, obvious to all the world, he was obliged to support them with force, and to that end, he was to set himself above the laws. These two projects, of establishing an arbitrary government, and destroying the Protestant religion, were not of a late date. Every one knew they had long been in hand. But the English did not expect, the king would violate his repeated promises to support and defend the religion established by law: Nay, some were so strangely blind, as to think it impossible for the king to break his word. But they were afterwards too sensible of their error. All the rest of this reign consists only in the means used by the king to execute this design, and in the measures taken by the English at last to stop his career. I must begin with the first of these points, before I proceed to the second.

Many things should have diverted the king from forming such a project. First, the difficulty of the execution, which might have been easily foreseen. For if it is considered, that the Papists of England are not the thousandth part of the nation, it must be thought strange, that with this thousandth part it is attempted to compel the rest to change their religion. I say compel, for what likelihood is there that, without compulsion, a whole nation may be persuaded to quit their religion and embrace another, for which they have the utmost abhorrence? It will, perhaps, be said, that James had almost accomplished it, and that without a foreign aid, the English would have been forced to submit to the yoke. But the inconsiderableness of this aid, demonstrates, he was yet very far from his ends.

Secondly, As to the absolute power, which must have been established, in order to introduce a religion contrary to that of the whole kingdom, he was much mistaken in supposing, that France would lend him a powerful aid for that purpose. For it was not the interest of Lewis XIV, to render

James II. der the king of England absolute, but only to raise commo-  
 1685. tions in that kingdom, which, by keeping England em-  
 —————ployed, should facilitate the execution of his ambitious de-  
 signs.

Welwood,  
 P. 133, &c. Thirdly, If the examples of Edward II, and Richard II,  
 as too remote from his time, made no impression upon him,  
 he should have considered that of the king his father, who,  
 for endeavouring to stretch the prerogative royal, and for be-  
 ing only suspected of intending to introduce Popery, lost his  
 head on the scaffold. It has been seen, that Charles I, in  
 the time of his afflictions, writ to the prince his eldest son  
 to take warning by him, not to assume more power than be-  
 longed to him. Moreover, when he was brought on the  
 scaffold, he took off his George, and gave it to Dr. Juxon,  
 saying, "Remember." The council of state being willing  
 to know the meaning of that expression, Juxon answered,  
 "That the king immediately before his coming out to the  
 " place of execution, had charged him to carry to the prince  
 " his George, with these his two last commands, That he  
 " should forgive his murtherers; and, If ever he came  
 " to the crown, he should so govern, as not to force  
 " them upon extremities." The queen-dowager, as she  
 was going into Somerset-house, after the restoration of  
 Charles II, said, "Had I known the English some years  
 " since, as well as I do now, I should never have been  
 " forced to leave this palace." In fine, Charles II, when  
 at the point of death, told the duke his brother, "not to  
 " think of introducing the Roman-catholic religion into  
 " England, it being a dangerous and impracticable thing."  
 These warnings, which could not be suspected by the king,  
 ought to have made him seriously consider what he was going  
 to do.

Puffendorf  
 life of  
 Elect. of  
 Brandenb.

Ibid,

Fourthly, don Pedro Ronquillo, the Spanish ambassador,  
 at his first audience after the king's accession to the crown,  
 told him, "That he saw several priests about him, who  
 " would importune him to alter the established religion;  
 " but wished his majesty not to hearken to their advice, for  
 " if he did, he would have reason to repent of it when it  
 " was too late." The king taking ill the ambassador's free-  
 dom, asked him in a passion, "Whether, in Spain, the  
 " king advised with his confessors? Yes, Sir, replied don  
 " Pedro, and that is the reason our affairs go so ill."

Fifthly, pope Innocent XI, in a letter to the king upon  
 his coming to the crown, told him, "That he was highly  
 " pleased with his zeal for the Catholic religion: but was  
 " afraid



“ afraid he would carry it too far, and instead of contri- James II.  
 “ buting to his own greatness, and the advancement of re- 1685.  
 “ ligious, he would do both himself and the Catholic church  
 “ the greatest prejudice, by attempting that which could  
 “ never succeed.”

Lastly, It was manifest, that the king could hope to succeed in his undertaking only by force, and that this force wholly lay in his army and fleet. But was it not a strange project, to attempt to reduce by force a Protestant kingdom to the Catholic religion, with a Protestant army, and a fleet whose commanders and mariners were Protestants? He had but too much reason to perceive his error, when it was too late to correct it.

These considerations, examples, and warnings, were ineffectual against the impetuous zeal of the king, and the importunities of those who were admitted to his secret counsels, and particularly the queen. He attempted at once two things equally difficult, namely, to set himself above the laws, and to alter the established religion. When I say he attempted it, I mean, openly and bare-faced, for it was no new design. He had formed it long since, and, not to carry back the beginning of it too far, it suffices to observe, that the execution of it had been privately labouring about twenty years; and that moreover, James did but pursue the scheme he had perhaps himself framed, when duke of York. It was not therefore the duke of Monmouth's defeat that inspired James II with the thoughts of becoming absolute, and altering the established religion. His good fortune to conquer that rival, served only to put him upon hastening the execution of his projects. This evidently appears, when it is considered, what passed in Ireland since the beginning of his reign.

About two months after the king's accession to the crown, The King's  
 he recalled the duke of Ormond from Ireland, and appointed proceedings  
 two lords justices to govern that kingdom (o). The duke of in Ireland.  
 Ormond was not a proper instrument for the king's purposes. Kennet.  
 At the same time, the privy-council of Ireland was dissolved, p. 466.  
 and a new one appointed, into which were admitted several Burnet,  
 known Papists. Soon after, their number was so increased, p. 654.  
 that they made the major part of the council, so that the Echard.  
 Protestants no longer assisted, that they might not authorize

(o) The archbishop of Armagh, and Arthur Forbes Earl of Granard. The archbishop was so compliant to the court, that even his religion came

to be suspected. However, he was not thought thorough paced: so Sir Charles Porter was made chancellor in his room. Burnet p. 654.

James II. by their presence, such resolutions as it was in vain to oppose.  
 1685. When the council was thus modelled, nothing was heard  
 ————— in Ireland, but impeachments against the Protestants, for  
 being concerned in the Rye-plot, and afterwards, for holding  
 correspondence with the duke of Monmouth, or his adherents,  
 The moment any person was accused, he was sent to prison by the council, without being admitted to bail, or brought to a trial. The earl of Granard, one of the lords-justices, and a good Protestant, weary of being an instrument to those acts of injustice, desired to be dismissed. But the king denied him, and sent him a letter under his own hand, assuring him, "that nothing should be acted prejudicial to the Protestant interest." But it soon appeared, that the king never meant to perform this promise. For, very shortly after, he resolved to have a standing army of Papists in Ireland, and to disarm the Protestants. This last article was first put in practice. The king writ to the lords-justices, "That there was reason to believe, that the rebellion of Monmouth had been of that spreading contagion, as to reach Ireland, and therefore it was not safe to have the arms of the militia dispersed abroad; but they would be in greater readiness for the use of the militia, and the defence of the country, to have them deposited in the several stores of each county." Upon this order, the lords-justices published a proclamation, agreeable to the king's desire, and the city of Dublin having brought in their arms, their example was followed by all the country.

Kennet,  
 p. 447.

The Protestants being thus disarmed, means were devised to turn the Protestant, into a Catholic army. For that purpose, colonel Richard Talbot, a violent papist, was impowered to cashier such officers and soldiers as he thought fit. He was the man of all others most odious to the English protestants in Ireland. It is observable, that Titus Oates in his narrative of the popish plot, named him as designed for this very service. So, when the event was seen to agree so well with what Oates had related, many could not help thinking either that he had been well informed, or was a good prophet.

Talbot having received this commission, broke many officers, on pretence that they had borne arms against the king during the troubles, or were sons and relations of those who had served the parliament of Cromwell. It must be observed, that all this passed in Ireland, before or immediately after the duke of Monmouth's defeat, at a time when the king had not yet manifested his designs in England. That I may not be



be obliged frequently to return to what was transacting in James II. Ireland, I shall briefly add here, that about the end of the 1685. year, Talbot came into England, and was made earl of Tyrconnel, and lieutenant-general of the Irish army; and shortly after, Henry earl of Clarendon was appointed lord-lieutenant of Ireland.

The parliament of England, after several adjournments, Kennet, meeting at last on the 9th of November, the king made the<sup>P. 434.</sup> following speech to both houses.

“ My lords and gentlemen,

“ **A**FTER the storm that seemed to be coming upon The king's speech to the parliament. Gazettes, No. 2085.  
 “ us when we parted last, I am glad to meet you  
 “ all again in so great peace and quietness; God Almighty  
 “ be praised, by whose blessing that rebellion was suppressed;  
 “ but when I reflect what an inconsiderable number of men  
 “ began it, and how long they carried it on without any  
 “ opposition, I hope every body will be convinced, that the  
 “ militia, which hath hitherto been so much depended on,  
 “ is not sufficient for such occasions; and that there is nothing  
 “ but a good force of well-disciplined troops in constant pay,  
 “ that can defend us from such, as either at home or abroad,  
 “ are disposed to disturb us. And in truth, my concern for  
 “ the peace and quiet of my subjects, as well as for the safety  
 “ of the government, made me think it necessary to encrease  
 “ the number to the proportion I have done; this I owed as  
 “ well to the honour, as to the security of the nation, whose  
 “ reputation was so infinitely exposed to all our neighbours,  
 “ by having lain open to this late wretched attempt, that it  
 “ is not to be repaired without keeping such a body of men on  
 “ foot, that none may ever have the thought again of find-  
 “ ing us so miserably unprovided. It is for the support of this  
 “ great charge, which is now more than double to what it  
 “ was (p), that I ask your assistance, in giving me a supply  
 “ answerable to the expence it brings along with it; and I  
 “ cannot doubt, but what I have begun, so much for the  
 “ honour and defence of the government, will be continued  
 “ by you with all the chearfulness and readiness, that is re-  
 “ quisite for a work of so great importance.

“ Let no man take exception, that there are some officers  
 “ in the army not qualified, according to the late tests, for  
 “ their employments: the gentlemen, I must tell you, are

(p) The army, which before con- increased to fifteen thousand. Rapin.  
 sisted but of seven thousand men, was

“ most

James II. 1685. " most of them well known to me; and having formerly  
 " served me on several occasions, and always approved the  
 " loyalty of their principles by their practice, I think them  
 " fit now to be employed under me; and I will deal plainly  
 " with you, that after having had the benefit of their ser-  
 " vices in such time of need and danger, I will neither ex-  
 " pose them to disgrace, nor my self to the want of them,  
 " if their should be another rebellion to make them neces-  
 " sary to me. I am afraid some men may be so wicked, to  
 " to hope and expect, that a difference may happen between  
 " you and me upon this occasion: but when you consider,  
 " what advantages have risen to us in a few months, by the  
 " good understanding we have hitherto had; what wonder-  
 " ful effects it hath already produced in the change of the  
 " whole scene of affairs abroad, so much more to the ho-  
 " nour of the nation, and the figure it ought to make in the  
 " world; and that nothing can hinder a further progress in  
 " this way to all our satisfactions, but fears and jealousies  
 " amongst ourselves; I will not apprehend that such a mis-  
 " fortune can be befall us, as a division, or but a coldness be-  
 " tween me and you; nor that any thing can shake you in  
 " your steadiness and loyalty to me, who, by God's blessing,  
 " will ever make you all returns of kindness and protection,  
 " with a resolution to venture even my own life in the de-  
 " fence of the true interest of this kingdom."

People's eyes begin to be opened. Echard. III. p. 781. This speech equally surprized both houses of parliament, and the whole kingdom, when it came to be published. The English had often ventured their lives in the defence of their laws and liberties, of which they then believed themselves secure, as well by the constitution of the government, as by the king's solemn promise, but they beheld their laws openly attacked in the most sensible part. Many of those who had most warmly opposed the exclusion-bill, began to open their eyes, and perceive, that the jealousies and fears of the Whig parliaments were too well grounded, and that it was difficult to reconcile the interests of a Roman Catholic king, with those of a Protestant kingdom. This was what the Whigs had in vain declared in the late reign. Instead of duly weighing their reasons, the Tories had run into the other extreme, nay, had expected to be gainers by setting the duke of York on the throne. But this first public step of the king, made them proceed for the future with a little more caution, tho' by their principles they were not yet obliged to take such measures as would have been necessary.



It was warmly debated in the house of lords, whether they James II. should give the king thanks for his speech. Some were utterly 1685. against it; whereupon the marquiss of Hallifax said, "They  
 " had now more reason than ever to give thanks to his <sup>The lords</sup>  
 " majesty, since he had dealt so plainly with them, and dis- <sup>thanked the</sup>  
 " covered what he would be at." Nevertheless, it was re- <sup>king.</sup>  
 solved by the majority, that the king should be thanked. <sup>Ibid.</sup>  
 But however, the bishop of London moved, that his ma- <sup>Burnet.</sup>  
 jesty's speech might be debated; and though it was unusual <sup>P. 664.</sup>  
 in the house, the 23d of the month was appointed to take  
 the speech into consideration, with which the king was highly  
 displeased.

When the commons were returned to their house, the <sup>The com-</sup>  
 king's speech was ordered to be read, which was followed <sup>mons defer it</sup>  
 by a long and profound silence. At last, the earl of Mid- <sup>Nov. 12.</sup>  
 dleton moved for an address of thanks to the king for his <sup>Life of</sup>  
 speech. This motion produced a second silence, which was <sup>James II.</sup>  
 broke by the lord Castleton, who, more bold than the rest, <sup>p. 120.</sup>  
 plainly declared against thanking the king. Wherefore, as <sup>Kennet,</sup>  
 there would probably be some difficulty in the matter, the <sup>P. 435.</sup>  
 debate was adjourned till the 12th of the month. To give the  
 reader a clear notion of the difficulties which occurred in the  
 king's demand, I shall make here some observations which  
 perhaps will not be foreign to the purpose.

The house of commons, as I said, consisted then of Tory-<sup>Observations</sup>  
 members, there being very few Whigs, or if any, their <sup>on this</sup>  
 number was not considerable. Now the Tories had a very <sup>matter,</sup>  
 different notion of the regal power, from that of the Whigs.  
 They had, as we have seen, declared in the late reign for  
 passive-obedience and non-resistance, and the church made it  
 an article of faith. Nevertheless it may be said, when they  
 introduced this doctrine without any limitation, they did not  
 foresee all the consequences. It was properly to contradict  
 the principles of the Whigs, who ran into the other ex-  
 treme. As they imagined, that Charles II and James II  
 were for them, they fancied they could not stretch the royal  
 prerogative too much, in the belief, that these two princes  
 would exert it only against their adversaries. According to  
 this principle, king James's demand for a standing army of  
 fifteen thousand men in time of peace, did not seem contrary  
 to their interest, tho' the parliaments had ever been extremely  
 averse to a standing army, which served only to increase the  
 regal power. But what the king did by his sole authority,  
 in employing Popish officers in this army, was a thing as  
 much against the Tory as the Whig interest. It was easy  
 to

James II. to perceive, of what dangerous consequences it might be to  
 1685. the Protestant religion in general, as well Episcopalian as  
 Presbyterian, and these consequences were the more to be  
 dreaded, as what passed in Ireland plainly discovered the  
 king's intentions. Besides, the power assumed by the king,  
 to exempt the Popish officers from taking the test, was di-  
 rectly contrary to the liberties of the kingdom as well as to  
 religion.

A supply  
 voted.  
 Life of  
 James II.  
 p. 120, &c.  
 Kennet.  
 Echard.  
 III. p. 782.  
 Burnet.

When therefore the king's speech was debated the 12th  
 of November in the house of commons, such members as  
 were not of the same principles with the rigid and violent  
 Tories, spoke with great freedom, representing the incon-  
 veniencies of a standing army in time of peace (q), and  
 moved for new modelling the militia, so as to render them  
 of use upon occasion. They were suffered to talk as much as  
 they pleased, but when the question was put for a supply to  
 be given to the king, it was carried in the affirmative. It is  
 true, some one having moved that these words might be ad-  
 ded, "towards the support of the additional forces," they  
 were rejected, that the house might not appear to approve of  
 the augmentation of the regular troops, and instead thereof  
 it passed, "the house be moved to bring in a bill to make  
 "the militia useful." By this they would have had it be-  
 lieved, that the parliament reserved to themselves the power  
 of breaking the regular troops, and establishing a good mi-  
 litia in their room. But, doubtless, it was to hinder the  
 people from being alarmed, if they saw the parliament ap-  
 prove of maintaining an army in time of peace. For, after  
 all, a supply was given the king for the maintenance of this  
 army.

Echard.  
 p. 783.

As to the sum which was to be granted, the courtiers  
 moved for twelve hundred thousand pounds. Others ex-  
 claimed against the exorbitancy of such a sum, and were  
 for reducing it to four hundred thousand pounds, alledging,  
 that it would be enough to maintain the additional forces  
 two years, till the militia should be made useful. They  
 represented, that they had already given customs and ex-  
 cises for his majesty's life, which amounted to six mil-

(q) Among other things it was said.  
 —"All the profit and security of this  
 "nation is in our ships. — Support-  
 "ing an army, is maintaining so  
 "many idle persons, to lord it over  
 "the rest of the subjects. — Armies  
 "debauch the manners of all the  
 "people, their wives, daughters, and

"servants, &c." On the other hand,  
 the contrary party alledged, "That  
 "there was a bitter spirit in the three  
 "last parliaments, not yet well al-  
 "layed, and so considerable a force  
 "was needful besides the militia."  
 Life of James II. p. 123, 124, 130.

lions



lions (a) and that if they gave so much at once, they should have nothing left to give; especially as it was the nation's interest, that the king should have frequent occasion for his parliament. At last, after great debates, it was resolved, that a supply of seven hundred thousand pounds should be granted to the king. It was evident therefore, that the maintenance of an army of fifteen thousand men was not what most displeased the commons in the king's speech.

But the affair of the Popish officers was of such a nature, that it concerned the Tory no less than the Whig party. It was easy to see the great danger of the Protestant religion, if the parliament, after having agreed to a standing army, should further consent to the king's employing as many Papists as he pleased. The commons thought therefore, that on this occasion it was necessary to set some bounds to passive-obedience, though till now this doctrine had been maintained without any restriction, because it was not imagined, that the king would attack religion and the laws. One of the members speaking on this subject, represented very strongly, "That his majesty, on his first accession to the crown, told them, 'He had been misrepresented, and that he would preserve the government in the church and state, now established by law, and maintain them in all their just rights and privileges:' That, overjoyed at this, they ran hastily to him, and were so forward to give, that the king's ministers put their stop to it: that they ought not to forget, that there was a bill of exclusion debated in that house; and that the arguments for it were, 'That they should, in case of a Popish successor, have a Popish army:' That they saw the act of the test already broken; but prayed them to remember what the late lord chancellor told them when king Charles passed that act: 'By this act, said he, you are provided against Popery, that no Papist can possibly creep into any employment:' That he was greatly afflicted at the breach of their liberties, and seeing so great a difference between his last speech, and those heretofore made, he could not believe but this was made by some other advice: that what the thing struck at there was their all; and that he wondered there had been any men so desperate, as to take any employment without being qualified for it: and concluded to have a standing army voted destructive to the country." During these debates the court-party were not

James II.  
1685.

Debates  
about Popish  
officers.

Kennet,  
P. 435.  
Echard.  
III. p. 784.

(a) Reckoning all the time for which they had been granted. Rapin.

James II. idle. They represented very strongly, the inconveniencies  
 1685. of not complying with the king's desires. The result was,  
 the appointing a committee to draw up the following address,  
 which was presented to the king the 17th of November.

The com-  
 mons ad-  
 dress.  
 Kennet.  
 P. 435.  
 R. Coke,  
 P. 349.

“ Most gracious sovereign,  
 “ **W**E your majesty's most loyal and faithful subjects,  
 “ the commons in parliament assembled, do, in  
 “ the first place, as in duty bound, return your majesty  
 “ our most humble and hearty thanks, for your great care  
 “ and conduct in suppressing the late rebellion, which threat-  
 “ ened the overthrow of this government both in church  
 “ and state, to the extirpation of our religion as by law  
 “ established, which is most dear unto us, and which your  
 “ majesty hath been pleased to give us REPEATED ASSU-  
 “ RANCES you will always defend and maintain; which,  
 “ with all grateful hearts we shall ever acknowledge. We  
 “ further crave leave to acquaint your majesty, that we  
 “ have, with all duty and readiness, taken into our con-  
 “ sideration your majesty's gracious speech to us: and  
 “ as to that part of it relating to the officers in the army,  
 “ not qualified for their employments, according to an act  
 “ of parliament made in the 25th year of the reign of your  
 “ royal brother, entitled, ‘An act for preventing dangers  
 “ which may happen from Popish recusants;’ we do, out  
 “ of our bounden duty, humbly represent unto your majesty,  
 “ that these officers cannot by law be capable of their em-  
 “ ployments; and that the incapacities they bring upon  
 “ themselves that way, can no way be taken off but by an  
 “ act of parliament: therefore, out of that great reverence  
 “ and duty we owe unto your majesty, who have been  
 “ graciously pleased to take notice of their services to your  
 “ majesty, we are preparing a bill to pass both houses, for  
 “ your royal assent, to indemnify them from the penalties  
 “ they have now incurred: and because the continuing  
 “ them in their employments, may be taken to be a dispen-  
 “ sing with that law, without an act of parliament, the con-  
 “ sequences of which is of the greatest concern to the rights  
 “ of your majesty's subjects, and to all the laws made for the  
 “ security of their religion. We therefore, the knights,  
 “ citizens, and burgeses, of your majesty's house of com-  
 “ mons, do most humbly beseech your majesty, that you  
 “ would be most graciously pleased to give such directions  
 “ therein, that no apprehensions or jealousies may remain in  
 “ the hearts of your majesty's most loyal subjects.”

this



This address being presented to the king by the speaker, James II. attended by the whole house, his majesty gave them this answer. 1685.

“ Gentlemen,

“ I did not expect such an address from the house of commons: for having so lately recommended to your consideration the great advantage a good understanding between us had produced in a very short time, and given you warning of fears and jealousies amongst ourselves; I had reason to hope, that the reputation God had blessed we with in the world, would have sealed and confirmed a good confidence in you of me, and of all that I say to you. But however you proceed on your part, I will be steady in all my promises I have made you, and be just in my word in this, and all my other speeches.”

This answer, though pretty obscure, so surprized the commons, that when it was read in the house, they kept a profound silence for a considerable time. At last it was moved by one of the members, that a particular day might be appointed to consider of the king's answer. This motion was seconded by Mr. Coke, burgess for Derby, who added, “ He hoped they were all true Englishmen, and not to be frightened out of their duty by a few hard words.” Though this speech was very consistent with the freedom of a house of commons, the majority, however, were pleased to look upon Mr. Coke as an incendiary, who intended to sow discord between the king and the commons, and voted him to be sent to the Tower. Moreover, the house, to make amends in some measure for the offence they had given the king, proceeded to ways and means towards raising the seven hundred thousand pounds before voted. But they stopped not there. To show the king that they sought all possible ways to content him, besides a bill to indemnify the Popish officers from the penalties they had already incurred, they resolved to offer another to the king, to qualify such a number of those officers to serve in the army as he should think fit. All this demonstrates, it was with regret that the house swerved from the principle of passive-obedience and non-resistance.

In the mean time, the lords received petitions from Thomas Grey, earl of Standford, and Henry Booth, lord Delamere, representing, that these two peers were committed to the Tower in July last, upon a general accusation of treason, kept close prisoners, and denied the use of pen, ink, and paper.

The commons seek to content the king.  
Kennet.  
p. 436.  
Life of James II.  
p. 134.  
Echard.  
III. p. 785.  
Burnet.

Nov. 19;

Welwood,

Petitions from the lords prisoners.  
Nov. 9. 11.  
Kennet.  
p. 436.

James II. paper. These petitions obliged the lords to send to the king, -  
1685. to know the reason why these two peers were imprisoned.

Nov. 16.

The king answered by the lord chancellor, that they were committed for high-treason, and that he had given orders for a commission of oyer and terminer to try the lord Delamere in Cheshire, where the crime was committed. But as he had given no orders about the earl of Stanford's trial, the lords appointed him to be tried by his peers, to which the king consented.

The king  
prorogues the  
parliament.  
Kennet.

P. 437.  
Echard.

III. p. 787.

Within a few days, on the 20th of November, the king finding it would be very difficult to obtain his desires of the commons concerning the Popish officers, prorogued the parliament till the 10th of February, after a session but of eleven days. The king lost, by the prorogation, the seven hundred thousand pounds voted by the commons. But he did not want it, considering the vast sums they had liberally granted him. This prorogation, which was followed by several others, and at length by the dissolution of the parliament, the last in this reign, is a clear demonstration of two things. First, that the king considered the affair of the Popish officers in the army, as of great moment, since he chose rather to lose seven hundred thousand pounds, than see his pretended right to employ them contested by the parliament. The second is, the excessive compliance shown the king by the commons, in enabling him to maintain an army, employ Popish officers, and, in a word, to have no occasion for a parliament. For from hence sprung all the evils which afflicted England during the rest of this reign.

The lord  
Delamere's  
trial.  
State-trials.  
IV. p. 210.  
Burnet.  
p. 668.  
Kennet.  
Echard.

About a month after the prorogation of the parliament, the lord Delamere was brought to his trial by his peers, though the king had before resolved to have him proceeded against in another manner. The lord Howard was the first witness produced against him. But though he gave a large account of the duke of Monmouth's conspiracy, he deposed nothing positive against the lord Delamere. The second witness was Ford lord Grey, at which every one was surprized, it not being known that he was pardoned. This gave occasion to think he was in great favour with the king. But his evidence tended more to prove in general the duke of Monmouth's rebellion, than the guilt of the prisoner in particular. One Saxon was the only witness that swore to the lord Delamere's correspondence with the duke of Monmouth. But as he was a person of very bad reputation, the lords took no notice of his evidence, and the prisoner was unanimously acquitted.

He is ac-  
quitted.

As



As for the earl of Stanford he was admitted to bail, and James II. though nothing could be proved against him, he thought fit 1685. to lay hold on the proclamation of pardon which was published shortly after. This pardon appeared not till the end of the year, after the executions of a great number of persons. It was moreover clogged with so many exceptions, that the king was not much thanked for it.

The lord Stanford is discharged upon bail. Gazettes.

James, in this first year of his reign, bestowed honours and dignities upon several of his favourites and adherents, and advanced others to high offices. Henry Bennet, earl of Arlington, dying July 28, his place of lord chamberlain was given to John Sheffield, earl of Mulgrave, who became one of the chief favourites in this reign. Laurence Hyde, earl of Rochester, was made lord treasurer, and Henry, earl of Clarendon, his elder brother, lord lieutenant of Ireland. Robert Spencer, earl of Sunderland, principal secretary of state, was declared lord president of the council, and from that time became prime-minister of state.

Promotions at Court. Gazettes.

The person most known abroad, that died this year, was Sir John Marsham, eminent for his great skill in ancient history and chronology. He departed this life in the eighty third year of his age (b)

The death of Sir John Marsham.

The year 1686, to which we are now to proceed, was wholly spent, as well as the next, in the execution of the king's two grand projects, namely of making himself absolute and establishing Popery. These two projects could not but keep equal pace. For the king being a Papist, his chief aim in rendering himself absolute was to alter the religion of the kingdom, and, on the other side, he could not introduce Popery, but by setting himself above the laws.

Before things were carried any farther in England, he believed it proper to be assured first of Scotland and Ireland. As for Scotland, the managers there were entirely disposed to comply with the king's will. The late parliament, besides the acts before-mentioned, passed one (c) wherein it was declared, "That they owe all their blessings to the sacred race of their glorious kings, and to the solid, absolute authority wherewith they were invested by the first and fundamental laws of their monarchy: — And therefore they again declare to the world, That they ab-

Proceedings of the parliament of Scotland. Kennet. P. 444. Burnet. Echard. III. p. 790.

(b) This year also died Sir William Dugdale, Garter king at arms, author of the Baronage, Antiquities of Warwickshire, &c. and Thomas Otway.

(c) Containing a tender of duty, and offer of the excise to his majesty. Kennet, p. 444.

James II. 1686. "hor and detest not only the authors and actors of all pre-  
 ceeding rebellions against their sovereign, but also all prin-  
 ciples and positions which are contrary or derogatory to  
 the king's sacred, supreme, sovereign, absolute power  
 and authority, which none, whether particular persons  
 or collective bodies, can participate of any manner of  
 way, or upon any pretext, but in dependence on him,  
 and by commission from him, &c." They passed another  
 act, "To confirm and approve whatever had been done by  
 his majesty's privy-council, justice-court, and those com-  
 missionated by them, in banishing, imprisoning, or fining  
 such as refused to take and swear the oath of allegiance;  
 and to assert the royal prerogatives in the utmost extent of  
 them."

If what passed in Scotland in the reign of Charles I, and during the Interregnum, be remembered, it will be easily perceived, this was not the general sense of the Scots, but only the opinion of a parliament devoted to the king, and which visibly abused their authority, to establish a form of government directly contrary to the old constitution.

Life of  
 James II.  
 p. 140.

Encouraged by these great advances, the king summoned the parliament of Scotland, to assemble the 29th of April this year, and wrote a letter to them, wherein, "He re-  
 commends to their special care, his innocent Roman Ca-  
 tholic subjects, who had always been assistant to the  
 crown in the worst of rebellions and usurpations, though  
 they lay under discouragements hardly to be named:  
 These he most heartily recommended to them; to the  
 end, that as they had given good experience of their true  
 loyalty and peaceable behaviour, so, by their assistance,  
 they might have the protection of his laws, not suffering  
 them to lie under obligations, which their religion could  
 not admit of; by doing of which, they would give a de-  
 monstration of their duty and affection towards him,  
 and do him most acceptable service. And this love he ex-  
 pected they would show to their brethren, as they saw him  
 an indulgent father to his people."

Gazettes.  
 No. 2135.

The Earl of Murray, lord-high-commissioner, seconded this letter, with a particular account of the many advantages the king intended to procure his realm of Scotland, chiefly with respect to trade. He also endeavoured to persuade them, that what the king desired, tended as much to the honour and welfare of his subjects of Scotland, as to his own satisfaction. He concluded with saying, "By this you will  
 show



“ show yourselves the best and most affectionate subjects, James II.  
 “ to the best, the incomparable, and most heroic prince in 1686.  
 “ the world.”

When the king's letter, and the lord commissioner's Kennet. speech came to be considered in the parliament, some mem- P. 445. bers, without looking farther, were for complying with the king's desires. But others, in greater numbers, moved and prevailed to have a committee appointed, to examine the statutes against the Papists. The committee finding the statutes prohibited only the public exercise of the Popish religion, drew up a bill to allow them the exercise of their religion in private. But when this bill was presented to the parliament, it met with so much opposition, that the lord-commissioner thought fit to adjourn the debate to another time, till he had received instructions from court. The king sent him orders to dissolve, or at least prorogue the parliament, and some months after, by his sole authority, he established liberty of conscience in Scotland.

Affairs in Ireland were upon another foot. The king's Affairs of Ireland, King's State, &c. Kennet. will met with no opposition there, and though the lord lieutenant was a Protestant, his credit and authority were in- P. 447. sufficient to put a stop to the acts of injustice committed against those of his religion. The new earl of Tyrconnel was no sooner returned to Dublin, with the title of lieutenant-general of the army, but he began again to break the Protestant officers and soldiers, and put Roman Catholics in their places; without vouchsafing to ask for the lord-lieutenant's order (d). This bred a quarrel between them, wherein Tyrconnel behaved very haughtily, ever saying, he did nothing but by the king's express order. When he Life of James II. P. 137. had modelled the army according to the king's mind, he went over into England, where, by means of the queen, and father Petre the Jesuit, he supplanted the earl of Clarendon, and was appointed lord-lieutenant of Ireland. Upon Feb. 12. Kennet. P. 448. his arrival at Dublin, he endeavoured by a proclamation to dispel the fears of the Protestants, who saw themselves, to their great trouble, in subjection to a Catholic. But his actions corresponded not with his promises. Wherefore, a great number of Protestants chose rather to quit their estates in Ireland, and withdraw into England, than remain under the government of one so justly odious to them. On the

(d) Two or three hundred English posts, were now arbitrarily disbanded, gentlemen, who had laid out their and five or six thousand private soldiers sent a begging. Kennet, p. 447. fortunes in purchasing their military

James II. other hand, the English merchants who traded in Ireland, 1686. withdrew their effects, and by that the kingdom was reduced to great extremities. But all these disadvantages were compensated by the hopes of rooting out the Protestant religion in that country.

Means made  
use of by the  
king in  
England to  
execute his  
designs.  
Kennet.  
p. 449.  
Burnet.  
Echard.  
III. p. 796.

But it was chiefly in England that the king desired to establish Popery and arbitrary power. For, as I said, one of those things could not advance without the other. If he had only aimed at absolute power, without meddling with religion, in all appearance, he would have easily succeeded, since passive-obedience was in a manner established, and now reckoned an essential doctrine of the Church of England, the members whereof made the body of the nation, and were possessed of all the offices and places of trust. But as he had already discovered, that if he wished to be freed from the Yoke of the laws, it was chiefly to establish his religion; the parliament, however devoted to him in all other respects, had not been so compliant as to abandon the interest of religion: notwithstanding this, he hoped to attain his ends; first, by causing the judges to give it as their opinion, that he had a power to dispense with the laws. Secondly, by gaining the members of parliament by degrees, being resolved to have no session till he had accomplished that design. In England, as in other places, there are men always ready to sacrifice the public, to their private interest, and there were but too many, on the present occasion, even among the clergy themselves. Dr. Cartwright, dean of Rippon, speaking, in a sermon, of the king's promises made to the parliament, which were then the common topic of discourse and complaint, said, "That the king's promises were free donatives, and ought not to be too strictly examined or urged; and that they must leave his majesty to explain his own meaning in them." The king was so delighted with this gloss, that he rewarded the author with the bishopric of Chester, as an encouragement to other clergymen to follow so good an example.

Cartwright's  
gloss upon  
the king's  
promises.  
King's  
State, &c.  
Echard.  
III. p. 797.  
He is made  
Bishop of  
Chester.

Alterations  
among the  
judges.  
April 21.  
Kennet.

p. 449.  
Echard.  
III. p. 797.  
Burnet,  
p. 667, 669.

As for the judges, the king took care to send for them one by one, and talk with them privately in his closet (e), in order to persuade them to declare for his dispensing power, telling

(e) Upon which the term "Closetting" was much tossed about. He not only talked with his judges in this manner, but with many parliament-men, about the affair of the

Test, some whereof gave him very flat and hardy denials; others, tho' more silent, yet were no less steady. So finding he could not bring the majority to a compliance, he dissolved the par-

par-



telling them, he would have twelve Judges of his opinion (f). James II. Four absolutely refused to comply, and were immediately displaced. The king appointed four others of more pliable and submissive understandings, among whom there was one Papist (g). 1686.

At the same time, the king made a call of serjeants at law, among whom were several Catholics, one of whom was knighted (h), and a little after, another lawyer of the same religion was made a judge (i). A call of serjeants Kennet.

The privy-council also underwent the like alteration, the king having received into it five zealous Catholics, namely, the earl of Powis, the lord Arundel of Ardour, and the lord Bellasis, (who had been long confined in the Tower, being accused of the Popish plot) Henry Jermyn, lord Dover, and the earl of Tyrconnel. He likewise admitted the new bishop of Chester, and Dr. Parker bishop of Oxford, a reputed Papist. All these changes clearly discovered the king's intentions. And in the privy-council. July 17. Gazettes.

But it was not long before he gave more signal marks of them. It has been remembered, that he assumed a power to dispense with the observation of the test-act in his Catholic officers. The parliament's refusal of their consent to this innovation, only exasperated the king, and made him resolve to exempt from the penal laws all his subjects in general, and consequently the Papists. But as this was directly against law, he undertook to show, by the means of his corrupt judges, "That a power in the king to dispense with law, was law." For that purpose he took care first to have papers dispersed through the kingdom, to prove this pretended right, and to prepare the people for his designs (k). At last in a particular case (l), all the judges, except one, gave their opinions for the king, and made it a general rule in law: I. The judges give their opinion that the king may dispense with the laws. Welwood, p. 169. Kennet, p. 486. Echard, III. p. 798. Burnet, p. 669. Welwood, p. 172.

parliament: of whom, Burnet says, In all England it would not have been easy to have found five hundred men so weak, so poor, and so devoted to the court. So happily was the nation taken out of their hands by this precipitated violence of a bigotted court. Burnet. p. 668.

(f) Upon which Jones told him, "Possibly you may find twelve judges of your opinion, but you will scarce find twelve lawyers to be so." Kennet, p. 449.

(g) The judges turned out, were, Sir Thomas Jones, William Montague, Sir Job Charlton, Sir Edward Neville. In whose places were put,

Sir Henry Bedingfield, Sir Edward Atkins, Sir Edward Lutwiche, Richard Heath. Kennet, p. 449.

(h) Sir Christopher Milton, the poet's brother, who was made a judge.

(i) Sir Richard Allibone of Gray's-Inn, a Papist. The motto used by the serjeants was 'Deus, Rex, Lex,' Ibid.

(k) L'Estrange and others were employed to show, 'That a power in the king to dispense with law, was law.' Echard, Tom. III. p. 798.

(l) In the case of Sir Edward Hales, a Popish gentleman of Kent, who had an employment. Burnet, p. 669.

That

**James II.** That the laws of England are the king's laws. 2. That **1686.** therefore it is an incident, inseparable prerogative of the kings of England, as of all other sovereign princes, to dispense with all penal laws, in particular cases, and upon particular necessary reasons. 3. That of these reasons and necessities the king is the sole judge; consequently, 4. That this is not a trust invested in and granted to the king, but the ancient remains of the sovereign power of the kings of England, which never was yet taken from them, nor can be.

Life of  
James II.  
p. 146.

The Papists  
openly pro-  
fess their  
religion.  
Welwood,  
p. 173.  
Popish bi-  
shops conse-  
crated.  
Echard.  
III. p. 798.

Places be-  
stowed on  
Papists.

The clergy  
forbid to  
preach upon  
controverted  
points,

In consequence of this decision, the Papists, with the king's permission, set up every where in the kingdom, the free and open exercise of their religion. The Jesuits erected colleges and seminaries in all the considerable towns; and at the same time, four Popish bishops were publicly consecrated in the king's chapel, and sent down to exercise their functions in their respective dioceses, under the title of vicars apostolical. Their pastoral letters addressed to the lay-Catholics, were printed at the king's printing-house, and dispersed through the kingdom. Monks appeared in the habits of their order at Whitehall and St. James's, and scrupled not to tell the protestants, "That they hoped in a little time, to walk in procession through Cheapside." And as many converts were expected, that so plentiful a harvest might not want labourers, a great number of priests and monks were sent from foreign parts. From this time, the only way to preferment was to be a Papist, or a promoter of Popery. All affairs of the council were managed by Catholics, or some others who had but little regard to religion. Thus, by the decision of ten or twelve judges, nominated and corrupted by the king before their admission, the laws of England were given up, and the constitution entirely altered. By a like practice it was, that Charles I caused his judges to decide, that he had a right to impose taxes in cases of necessity, of which necessity himself was sole judge. Hence it may be perceived, that the laws of England would be ill supported, had they no firmer foundation than the decisions of judges appointed by the king. But it is surprizing, that the precedent of ship-money, established by Charles I and in effect, the principal cause of his ruin, made so little impression on James II. But the violence of his zeal for his religion, made every thing easy or possible to him, and, at all events, he was resolved to run the risk of the undertaking.

The king used another expedient for the advancement of his religion. He sent a circular letter to the bishops, with an order, prohibiting all the inferior clergy from preach-  
ing



ing upon controverted points of divinity, for fear, as was pretended, of raising animosities among the people. It was thus that the persecution began in Queen Mary's reign, and it ought not to seem strange, that a Popish king should imitate so zealous a Popish queen. But on this occasion, the clergy of the Church of England clearly discovered their aversion to Popery, of which they had hitherto stood accused by their enemies, on pretence of a scrupulous attachment to some modes and ceremonies, which the first reformers had not thought fit to retrench. For many of the dignified clergy, and the most distinguished for their piety and learning, far from prevaricating in the discharge of their office, preached openly on controverted points, or rather made them the chief subject of their discourses. They saw the tendency of this extraordinary inhibition, at a time when the Protestant religion was openly attacked, as well in sermons, as writings printed with licence, and industriously dispersed through the nation. It is justice to do honour to these faithful ministers of the gospel, by transmitting to posterity the names of the most distinguished amongst them. These were Tillotson, Stillingfleet, Tennison, Wake, Patrick, Sharp, Sherlock, all famous for their writings, and all afterwards promoted to the first dignities of the church.

The king and his Popish council were extremely offended with this boldness, and therefore, to force the Protestant clergy to submission, the King erected a new court for ecclesiastical affairs, composed of various members, among whom were several Catholics. A nomination of Papists to be judges of a Protestant clergy in matters of doctrine and discipline, showed that the king would no longer keep any measures. Among these commissioners were three bishops, namely, William Sancroft of Canterbury, Crew of Durham, and Sprat of Rochester. The rest were all laymen, of which the principal were Jefferies lord chancellor, the earl of Rochester lord treasurer, the earl of Sunderland secretary of state and president of the council, and the lord chief justice Herbert. The commission was directed to any three of them, whereof the lord chancellor was always to be one, for a reason very obvious.

By this commission they had a power to exercise and execute all manner of jurisdictions and pre-eminences, concerning any spiritual or ecclesiastical jurisdictions; to visit, reform, redress, and amend all abuses, offences, contempts, and enormities whatsoever, which by the spiritual or ecclesiastical

James II.  
1686.

Welwood,  
p. 173.  
Kennet,  
p. 452.  
Echard.  
III. p. 799.  
but obeys  
not.  
Burnet,  
p. 673, 674.  
Echard.  
III. p. 799.

The king  
erects an  
ecclesiastical  
commission.  
Kennet,  
p. 452.  
Echard.  
III. p. 800.  
Burnet,  
p. 675.

Power of  
the eccle-  
siastical  
commis-  
sioners.  
Kennet,  
p. 452.  
R. Coke.  
p. 356.

James II. 1686. *ecclesiastical laws of the realm might be lawfully corrected. They were also to enquire of all offences, contempts and misdemeanors committed, or hereafter to be committed; that they might be corrected and punished by the censure of the church; they were to search for, and call before them all ecclesiastical persons of what degree or dignity soever, and to punish the offenders, by excommunications, suspensions, deprivations, or other ecclesiastical censures: they were empowered to send for all statutes, rules, letters-patents of universities, colleges, grammar-schools, and all other ecclesiastical corporations, and the said statutes to correct, amend, and alter as they saw convenient, &c.*

Many of the best lawyers thought this commission illegal, and contrary to the act passed in the 17th year of Charles I for abolishing the High-commission-court. Others pretended, there was nothing in it contrary to that act. It seems however, that the court was conscious of its illegality, since tho' it was granted in April, it was not opened till August. Besides, the archbishop would never act in it.

The affair  
of the bishop  
of London.  
State-Try.  
IV. p. 243.  
Kennet,  
p. 455.  
Burnet.  
Welwood.  
June 14.

June 18.

Shortly after, Dr. Sharp, in a sermon, vindicated the Church of England in opposition to the errors of Popery. The king being informed of it, pretended, that the preacher's intention was to beget an evil opinion of him and his government in the minds of the hearers, and to lead them into disobedience and rebellion. On this supposition he sent a letter to Henry Compton bishop of London, commanding him forthwith to suspend Dr. Sharp from farther preaching in any parish-church or chapel in his diocese, till he had given him satisfaction, and his farther pleasure was known therein. On receipt of this order, the bishop wrote to the earl of Sunderland, and prayed him to communicate his letter to the king. He represented, that he was to proceed according to law, and as a judge; and by the law no judge condemns a man before he has knowledge of the cause, and has cited the party. Dr. Sharp himself carried the letter, but could obtain no answer. Two days after, he waited on the king at Windsor, with a very humble petition, but without any effect. The king and his council had already resolved to embrace this occasion to punish the bishop of London, who was odious to the court, because he had moved in the house of lords to examine the king's speech. Besides, by so great an example, they were resolved to establish the authority of their new ecclesiastical court. The bishop was therefore cited to appear before the commissioners the 4th of August, where he was treated in



a manner unbecoming his birth (m) and dignity by Jefferies James II. the chancellor, who used him with his wonted insolence. 1686.

The bishop demanded a copy of the commission, or at least to hear it read. But this was refused, and he was answered by Jefferies, that the commission might be had in every coffee-house for a penny. At last, with great difficulty, he obtained

a delay of five days. The 9th of August he appeared a second time before the court, and again on the 23d, when he disowned its jurisdiction, alledging, that as a bishop he had no other judge but his Metropolitan: but his plea was rejected. At last, after two or three adjournments of the court, he was suspended from the function and execution of his episcopal office, for his disobedience and contempt: And the bishops of Durham, Rochester, and Peterborough, were appointed commissioners within the diocese of London, during the bishop's suspension. Dr. Sharp was likewise suspended, but it was only for a few days.

Burnet,  
p. 676.

who is suspended.  
Sept. 6.

This affair convinced all the world, that the court was resolved to silence all the Protestant ministers, to prevent their maintaining the Protestant religion in their sermons. It was also perceived, that the king was resolved to keep no more measures, since in a time of profound peace, he had formed a camp of fifteen thousand men upon Hounslow-Heath, under the command of the earl of Feversham. In this camp was a public chapel, where mass was said every day.

Echard.  
III. p. 806.  
Burnet.

Though the army had but very few Popish officers and soldiers, it was feared, that the whole would be subservient to the king in the execution of his designs, in consequence of that blind obedience usually professed by an army. To obviate this danger, Samuel Johnson a clergyman (n), addressed a writing to the Protestant officers and soldiers of the army, wherein he laid before them the reasons which ought to prevent their being the instruments of the court, for the destruction of their religion, and the subversion of the government. This writing was too opposite to the king's designs to escape unpunished. Wherefore the author being tried at the King's-bench, was sentenced to stand three times in the pillory, to be whipped from Newgate to Tyburn, and to pay a fine of five hundred marks. The sentence, after Johnson's solemn degradation, was executed with great rigour. But his writing made a strong impression upon the

Johnson a clergyman addresses a writing to the army; Ibid. Kennet. p. 450. R. Coke, p. 364.

for which he is sentenced to be whipped, pilloried, and fined.

(m) He was brother to the late, and uncle to the then earl of Northampton.

(n) The same who wrote the book

called Julian the Apostate, which had given such offence to the duke of York in the last reign, and drawn upon the author a severe prosecution,

James II. minds of both officers and soldiers, and very much promoted  
1686. the great desertion which happened two years after in the  
army.

Miles  
Prance pro-  
secuted.  
Kennet,  
p. 449.  
Echard.  
III. p. 807.

About the same time, the goldsmith, Miles Prance, who had been a witness against the persons tried for the murder of Sir Edmundbury Godfrey, and had taken away three lives by his evidence, was tried upon an information exhibited against him for perjury, and sentenced to pay a fine of a hundred pounds, to stand three times in the pillory, and to be whipped from Newgate to Tyburn. But because he pleaded guilty, the whipping part of the sentence was remitted. Some say, he was so intimidated by the example of Oates, that he pleaded guilty merely to escape punishment. Others again pretend to confirm his confession from a declaration published by him afterwards, wherein he disowned his depositions in 1678. But as he was a Papist, some have suspected he was induced by religious motives to publish this declaration. In a case of this nature every man is at liberty to form his own conjectures.

The king is  
busy to gain  
profelytes.  
Kennet,  
p. 451.  
Echard.  
III. p. 808.

It was easy to discover from the king's whole conduct, that he had entirely pulled off the mask, and was desirous to have it thought, he intended to introduce the Roman Catholic religion. Accordingly, this was not doubted. His promise to the council and parliament to preserve the Protestant religion was entirely forgot, and there was no man so bold as to remind him of it. It was even dangerous to speak of it in public conversation, for fear of some mischievous consequence. Nor was the king contented with acting openly in favour of his religion, but even privately used all possible endeavours to make profelytes, chiefly among his courtiers and persons of the first rank. He succeeded with respect to Robert Spenser earl of Sunderland, who was willing to give him this proof of his devotion for him, though for some private reasons he refused to make a public abjuration.

The earl of  
Sunderland  
turns Papist.

The earl of  
Rocheſter  
refuſing to  
become a  
Papiſt,  
Kennet.  
Burnet.  
p. 684.  
is removed  
from being  
treafurer.

But he was not so successful in his attempt upon his brother-in-law the earl of Rochester. For though the earl consented to be present at a conference held by divines of both religions (o), the dispute, it seems, only attached him more firmly to the Protestant religion, since he bravely refused to forsake it. The king, mortified by his firmness, removed him from the treasury, which was put in commission, but withal assigned him a yearly pension of five thousand pounds

(o) The Protestant divines were, Popish, Gifford and Godden. Kennet,  
Dr. Patrick and Dr. Jane; and the P. 451.



upon the post-office. The earl of Clarendon his elder brother felt likewise the effects of the king's displeasure upon the same account. Being recalled from his government of Ireland before the time, he was deprived, about the end of the year, of the privy-seal, which was given to the lord Arundel, a Papist (p).

James II.  
1686.

The earl of  
Clarendon  
displaced.

At last, the king gave an unquestionable proof of his zeal for the Popish religion, by sending the earl of Castlemain in embassy to the Pope, "To reconcile the three kingdoms of England, Scotland, and Ireland, to the Holy See, from which for more than an age they had fallen off by heresy."

The earl of  
Castlemain  
sent ambaf-  
sador to the  
pope.

The ambassador was received at Rome with a coldness which gave the king a sensible mortification. Innocent XI, not suffering himself to be imposed upon by this outward show, considered the embassy was too much precipitated, since the conversion of the three kingdoms was yet far from being finished, and therefore he resolved to be no actor in a farce which would only render him ridiculous. And indeed to pretend to reconcile three kingdoms to the Church of Rome, on pretence of a few late conversions, was it not exposing the Pope, the king, and the Catholic religion to the mirth and insults of their enemies? This embassy was owing, it is said, to the influence of the Jesuits, who would have all Europe believe, they had converted the three kingdoms. But Innocent XI was not so fond of the Jesuits, as to give them this satisfaction at the expence of his own honour. Besides, being then engaged in a quarrel with France, and not ignorant of the close union between Lewis XIV and James II, he was pleased with giving some mortification to Lewis in the person of his friend and brother of England. To this was owing his treatment of the ambassador with so much coldness, not to say, incivility. Whenever he granted him an audience, his holiness had a fit of coughing at command, which spoiled the ambassador's harangue, and obliged him to withdraw. This happened so often, that at last the earl of Castlemain threatened to be gone. The Pope with his usual coldness sent him word, "That since

Is coldly re-  
ceived.  
Welwood,  
p. 157.

(p) John Sheffield, earl of Mulgrave, and lord chamberlain, being solicited by the priests to change his religion, "he heard them gravely arguing for transubstantiation." And then told them, "He had taken much pains to bring himself to believe in God, who made the world and all men it; but it must not be an ordinary force of argument, that could

"make him believe, that man was quits with God, and made God again." — Colonel Kirk was also spoken to, to change his religion, but he briskly replied, "He was pre-engaged, for he had promised the King of Morocco, that, if ever he changed his religion, he would turn Mahometan," Burnet, p. 683, 684.

"he

James II. 1686. " he would be gone, he advised him to rise early in the morning, that he might rest himself at noon; for in those countries it was dangerous to travel in the heat of the day." All the favour the ambassador could obtain from the Pope, was a licence to the Marshal D'Humiere's daughter to marry her uncle, and a dispensation of the statutes of the Jesuits order, that father Petre might enjoy a bishopric. It is said, the archbishopric of York was kept vacant for him. But if the Pope and most of the cardinals coldly received the English ambassador, the Jesuits made him some amends by showing him all possible respect. At last, the king recalled him, being unable to bear so many mortifications.

All places  
bestowed  
upon Pa-  
pists.  
Gazettes,  
Kennet.

However, the ill success of this embassy, discouraged not the king from pursuing his designs with such ardour and openness, that it could not be mistaken. Not only all vacant preferments were conferred upon Papists, but, without any reason given, Protestants were deprived of their places to make room for Papists. So, it was easily seen, that none besides Papists, or Protestants not attached to their religion, could pretend to any employments. The court was so open in their measures, that some of the principal Catholics could not forbear representing to the king, that his proceedings were more dangerous than advantageous to their religion. But the king was deaf to all but violent counsels, and such as were agreeable to his temper and zeal. One may see in the following letter, dated the 2d of February 1684, from a Jesuit of Liege to a Jesuit of Fribourg, the king's disposition with regard to religion.

1686-7.  
Letter from  
a Jesuit of  
Liege.  
Echard.  
III. p. 811.

" It is wonderful to see king James's great affection to our society: He wished prosperity to this whole college, by the reverend father, the provincial, and earnestly recommended himself to our prayers. Upon father John Keynes's return to England, he gave him a most gracious reception, (while earls and dukes were commanded for some hours to wait for admittance) with whom, in the queen's presence, he discoursed with all familiarity. He asked him, 'How many candidates for orders he had, and how many students?' And upon the provincial's answer to his majesty, who was urgent with him, 'That of the former and the latter he had above fifty;' he replied, 'There would be occasion for double or treble that number, to effect what he designed for that society's performance;' and ordered, that they should be all exercised in the art of preaching: 'For now,' says he, 'England has need of such.'

I do



“ I do not doubt but you have heard, that the King writing James II.  
 “ to Father de la Chaise, the French king’s confessor, con- 1686-7.  
 “ cerning the affairs of the house among the Walloons, de-  
 “ clared, That whatever was done to the English fathers of  
 “ that house, he would look upon as done to himself. Fa-  
 “ ther Clare, rector of the same house, being arrived at Lon-  
 “ don to treat of that matter, got an easy access to the king,  
 “ and as easily gained his point. The king himself forbid  
 “ him to kneel and kiss his hand, according to custom, say-  
 “ ing, ‘ Reverend father, you have indeed once kissed my  
 “ hand; but if I had known then, as I do now, that you  
 “ were a priest, I would rather myself, father, have kneeled  
 “ down and kissed your hand.’ After he had finished his  
 “ business, in a familiar conversation, his majesty told this  
 “ father, ‘ That he would either convert England, or die a  
 “ martyr; and he had rather die the next day and convert it,  
 “ than reign twenty years piously and happily, and not effect  
 “ it.’ Finally, he called himself, **A SON OF THE SOCIETY**,  
 “ of whose good success, he said, ‘ he was as glad as of his  
 “ own.’ And it can scarcely be expressed how much grati-  
 “ tude he shewed, when it was told him, ‘ That he was  
 “ made partaker,’ by the most reverend our provincial, ‘ of  
 “ all the merits of the society;’ out of which he is to nomi-  
 “ nate one for his confessor; but hitherto it is not known  
 “ who it will be: some report, that it will be the reverend  
 “ father the provincial, but still there is no certainty of that.  
 “ Many are of opinion, that father Edward R. Petre, who  
 “ is chiefly in favour with the king, will obtain an arch-  
 “ bishopric, but more believe it will be a cardinal’s cap. To  
 “ him has been granted, within this month or two, all that  
 “ part of the palace, in which the king used to reside, when  
 “ he was duke of York, where there is not a day, but you  
 “ may see I know not how many courtiers waiting to  
 “ speak to his eminence, for so they say he is called. For  
 “ the King advises with him, and with many Catholic lords,  
 “ who have the chief places in the kingdom, to find a me-  
 “ thod to propagate the faith without violence. Not long  
 “ since, some of these lords objected to the king, ‘ That  
 “ they thought he made too much haste to establish the faith.’  
 “ To whom he answered, ‘ I am growing old, and must  
 “ take **LARGE STEPS**; else if I should happen to die, I might  
 “ perhaps leave you in a worse condition than I found you.’  
 “ When they asked him, ‘ Why then he was so little con-  
 “ cerned about the conversion of his daughters, who were the  
 “ heirs of the kingdom?’ He answered, ‘ God will take  
 VOL. XII. E “ care

James II. "care of that; leave the conversion of my daughters to me;  
 1686-7. "do you, by your example, convert your tenants and others  
 "to the Faith."

"He has Catholic lord-lieutenants in most counties; and  
 "we shall have shortly Catholic justices of the peace in almost  
 "all places. We hope also, that our affairs will have good  
 "success at Oxford. In the public chapel of the vice-chancellor,  
 "who is a Catholic, there is always one of our divines, who has  
 "converted some of the students to the faith. The bishop of Oxford  
 "himself, seems to be a great favourer of the Catholic faith; he  
 "proposed to the council, Whether it did not seem to be expedient,  
 "that at least one college should be granted to the Catholics at  
 "Oxford, that they might not be forced to study beyond sea at such  
 "great expences; but it is not yet known what answer he had.  
 "The same bishop having invited two of our brethren, together  
 "with some of the nobility, drank the king's health to a certain  
 "heretic lord who was in company, wishing his Majesty good  
 "success in all his undertakings: adding also, 'That the religion  
 "of the Protestants in England, did not seem to him in a better  
 "condition, than Buda was before it was taken; and that they were  
 "next to Atheists, that defended that faith.' Many embrace the  
 "true religion, and four of the most considerable earls had lately  
 "made public profession of it. Father Alexander Keynes, the  
 "provincial's nephew, to whom is committed the care of the chapel  
 "belonging to the elector Palatine's envoy, is continually taken  
 "up in solving and answering the questions of heretics, who  
 "doubt of their faith, of whom you may see two or three  
 "together walking by the chapel door, continually disputing  
 "about some point of religion. As to prince George, it is yet  
 "uncertain what religion he professes. We gradually begin to  
 "get footing in England; we teach human learning at Lincoln,  
 "Norwich, and York; and at Worcester we have a public chapel,  
 "protected by a guard of the king's soldiers; and we are to  
 "buy some houses at Wigan in Lancashire. The Catholic interest  
 "grows very strong; and at some churches granted to the  
 "Catholics, upon holidays, there are often counted fifteen hundred  
 "present at the sermon. At London also, our business is carried  
 "on with the same good success: sermons are preached upon  
 "every holiday, and there are so many that frequent the  
 "chapels, that they are not big enough to hold them. Two of  
 "our society, Dormer and Bertue, preach continually before the  
 "king and queen; father Edward



ward Neville, before the queen-dowager; father Alexan- James II.  
 der Keynes, in the chapel aforesaid; others in other cha- 1686-7.  
 pels. There are many houses bought in the Savoy, near  
 Somerset-House, which is the queen-dowager's palace, to-  
 wards erecting the first college in London, for about eigh-  
 teen thousand florins; and they are hard at work to bring  
 them to the form of a college, that a school may be  
 opened before Easter.

A Catholic lord-lieutenant is shortly to go over to Ire-  
 land, because the King cannot be satisfied with any other,  
 to establish the Catholic interest in that kingdom. The  
 parliament will certainly sit in this month of February, of  
 whom his majesty is resolved to ask three things: First,  
 That by a general act all the Catholic peers may be ad-  
 mitted to sit in the upper house: secondly, That the  
 test may be abolished: and Thirdly, which is the chief  
 point, That all penal laws against Catholics should be  
 abrogated. And that he may the better obtain these things,  
 he designs to let them all know, 'That he is resolved to  
 turn out all those who will not heartily act for the obtain-  
 ing of them; and likewise dissolve the parliament.' At  
 which resolution some heretics being terrified, came to a  
 certain earl to advise with him what might be done; to  
 whom he answered, 'The king's mind is sufficiently  
 known; what he has once said he will certainly perform:  
 if you love yourselves submit to the king's pleasure.' There  
 is to be a great preparation of war at London, and a fleet  
 of above a hundred men of war is to be fitted out against  
 the spring, but against whom it is uncertain. The Dutch  
 are under great apprehensions, but for what reason, al-  
 though they are said to make an armament, time will best  
 discover."

The Jesuits of Fribourg made no scruple to show this letter  
 to several persons, who taking copies of it, made it public in  
 Switzerland, and at Geneva. Dr. Burnet says, he copied it  
 from one in the hands of Mon f. Heidegger, a famous professor T. I. p. 712;  
 at Zurich. One of the copies was sent to Dickvelt, ambassa-  
 dor of the States-general in England, who spoke of it to the  
 king. Whereupon the king desired to see it, saying, he  
 should soon know whether it was genuine, or forged to render  
 the Jesuits odious. But though it was put into his hands, he  
 spoke no more of it to Dickvelt.

The parliament, which, according to the last prorogation,  
 was to meet the fifteenth of February, was farther prorogued  
 to the 28th of April. Probably the king did not find things

The parlia-  
 ment pro-  
 rogued.

Gazettes.

N. 2206.

Echard.

ripe III. p. 813.

James II. ripe enough (as he desired) to be assured of the concurrence  
 1686-7. of the parliament in the execution of his designs. He chose  
 rather to take another course, which to him seemed more  
 short and easy, in establishing liberty of conscience by his  
 own authority. He was, doubtless, perswaded, that it would  
 be more easy to obtain the consent of the parliament to a  
 thing already done, than the power to do it. But he thought  
 proper to begin with Scotland, that the example of that king-  
 dom might influence the English. For this purpose he sent  
 a proclamation into Scotland for an entire liberty of con-  
 science, with orders to the privy-council to publish it. In  
 his opinion, this proclamation was more than capable to con-  
 vince all his good subjects of his great moderation, and desire  
 that all should live in quiet. He excluded, however, out of  
 his favour, the Field-conventiclers, whom he recommended  
 to his council to prosecute with all the severity of the laws.  
 This proclamation contained in substance :

The king  
 publishes in  
 Scotland a  
 declaration  
 for liberty of  
 conscience.  
 Gazettes.  
 N. 2221.  
 Kennet,  
 p. 446.  
 Echard.  
 III. p. 814.  
 Burnet,  
 p. 712.

“ That his majesty being resolved to unite the hearts and  
 “ affections of his subjects, to God in religion, to him in  
 “ loyalty, and to their neighbours in Christian love and cha-  
 “ rity; he had therefore thought fit, by his sovereign autho-  
 “ rity, prerogative royal, and absolute power, which all his  
 “ subjects were to obey without RESERVE, to give and grant  
 “ his royal toleration, to the several professors of the Chri-  
 “ stian religion after named. First, He allows and tolerates  
 “ the moderate Presbyterians, to meet in their private houses  
 “ only; but it is his pleasure that Field-conventiclers be pro-  
 “ secuted according to the utmost severity of the laws. In  
 “ like manner he tolerates Quakers to meet and exercise in  
 “ their form, in any place or places appointed for their wor-  
 “ ship” Then the proclamation proceeds thus, “ Consider-  
 “ ing the severe and cruel laws made against Roman Catho-  
 “ lics (therein called Papists) in the minority of our royal  
 “ grandfather, of glorious memory, without his consent,  
 “ and contrary to the duty of good subjects, by his regents  
 “ and other enemies to their lawful sovereign, our great-  
 “ grand-mother queen Mary, of blessed and pious memory;  
 “ wherein, under the pretence of religion, they cloathed the  
 “ worst of treasons, factions, and usurpations; and made  
 “ these laws, not against the enemies of God, but their own:  
 “ which laws have still been continued of course, without  
 “ design of executing them, or any of them, ad terrorem  
 “ only, on supposition, that the Papists, relying on an ex-  
 “ ternal power, were incapable of duty and true allegiance  
 “ to their natural sovereigns, and rightful monarchs; We  
 of



“ of our certain knowledge and long experience, knowing James II.  
 “ that the Catholics, as it is their principle to be good Chri- 1686-7.  
 “ stians, so it is to be dutiful subjects; and that they have

“ likewise, on all occasions, shown themselves good and  
 “ faithful subjects to us, and our royal predecessors, &c.

“ Do therefore, with the consent of our privy-council, by  
 “ our sovereign authority, prerogative royal, and absolute  
 “ power, suspend, stop, and disable all laws or acts of par-  
 “ liament, made or executed against any of our Roman Ca-  
 “ tholic subjects, in any time past, to all intents and purposes,  
 “ making void all prohibitions therein mentioned, pains or  
 “ penalties therein ordained to be inflicted: so that they shall  
 “ in all things be as free in all respects as any of our Prote-  
 “ stant subjects whatsoever, not only to exercise their religion,  
 “ but to enjoy all offices, benefices, and others, which we  
 “ shall think fit to bestow upon them in all time coming.

“ ——— And whereas the obedience of our subjects is due  
 “ to us by their allegiance, and our sovereignty; and that no  
 “ law, difference in religion, or other impediment whatso-  
 “ ever, can exempt the subjects from their native obligations  
 “ to the crown; and considering that some oaths are capable  
 “ of being wrested by men of sinister intentions, a practice in  
 “ that kingdom as fatal to religion as loyalty: We therefore  
 “ cass, annul, and discharge all oaths whatsoever, by which  
 “ any of our subjects are incapacitated from holding places or  
 “ offices in our said kingdom, discharging the same to be ta-  
 “ ken or given in any time coming, without our special war-  
 “ rant and consent; and we do stop, disable and dispense  
 “ with all laws, injoining the said oaths, tests, or any of  
 “ them, &c.” Towards the conclusion, the king repeats

former promises in these words: ——— “ For the encou-  
 “ ragement of our Protestant bishops, and the regular clergy,  
 “ and such as have hitherto lived orderly, we think fit to de-  
 “ clare, that it never was our principle, nor will we ever  
 “ suffer violence to be offered to any man’s conscience, nor  
 “ will we use force, or invincible necessity, against any man  
 “ on the account of his perswasion, nor the Protestant religion;  
 “ but will protect our bishops and other ministers, in their  
 “ functions, rights, and properties, and all our Protestant  
 “ subjects, in the free exercise of their Protestant religion in  
 “ the churches.”

Though this proclamation concerned only Scotland, I  
 thought proper to insert it here, because it discovers clearly the  
 king’s intentions and principles, and consequently, how he  
 pretended to deal with his English subjects, though hitherto

James II. he still kept within some bounds, with regard to that absolute power, which England had not ascribed to him in so extensive a manner as Scotland.

1687.

The council of Scotland publishes the king's proclamation. *Gazettes*, N. 2221. Kennet, p. 446.

The council of Scotland blindly obeyed the king, not only by publishing his proclamation, but even by ~~thanking~~ thanking him for it, as for a signal favour. This ought not to appear strange, because the council wholly consisted of men entirely devoted to the king, nor was there in Scotland any person in public office, who was not, or at least pretended not, to be in the same principles. The parliament was composed in the same manner, and by acts passed, had obliged all the Scots to an unlimited obedience, so that no man could oppose the king's measures, under pain of high-treason. Accordingly, the council, in thanking the king for his proclamation, might boldly speak for the whole kingdom: not that they were ignorant that it was not the general sentiment of the nation, but because they knew, no person would have the boldness to contradict it. It is not therefore to the whole Scotch nation, that this blind obedience is to be imputed, but to their governors, who were but a small part of the people.

The king publishes a like declaration in England. *Gazettes*, Kennet, p. 487. Echard. Burnet, p. 714.

The king, charmed with the ready compliance of the Scots, and considering it as a favourable precedent for England, summoned his council, and told them, "it was his intention to publish the like declaration in England. He grounded his resolution on his observing, that the endeavours to establish an uniformity in the four preceding reigns, had proved ineffectual, and been very prejudicial to the nation. That besides, it was his opinion, as most suitable to the principles of Christianity, 'That no man should be persecuted for conscience sake; for he thought conscience could not be forced.'" The council, composed like that of Scotland, approved of this resolution, and magnified the king's indulgence to his subjects. The declaration for liberty of conscience was therefore published the fourth of April. It was much the same with that published in Scotland, except that the king softened his expressions concerning his absolute power, and said, "he made no doubt of the concurrence of his two houses of parliament, when he should think it convenient for them to meet." It was however manifest, from the frequent prorogations of this parliament, that he was far from being assured of their concurrence.

Very probably, there was not in the whole nation a single person, who thought the king designed to favour or ease the Nonconformists. Every one clearly saw, that his aim in this declaration was to establish the Popish religion, upon the ruins



ruins of the Protestant. For how could it be supposed, that James II. the king, from a violent persecutor, should at once become a friend to the Dissenters? Or what assurance could there be, that his promises to the Nonconformists, would be better kept than those he had made to the Church of England? Nevertheless the Nonconformists had hitherto been treated with so much rigour, that it is not strange, they should at first think themselves happy in a deliverance from persecution. For this reason, addresses of thanks, from the several sects, were presented to the king for his declaration. The Anabaptists led the way; the Quakers followed, and next came the Independents; and lastly, the Presbyterians. Some of these addresses, speaking of the royal power, carried it to the highest degree, because it was then advantagious to the Nonconformists to maintain the authority by which they were freed from their constraint. The Churchmen failed not to take notice of this change. But they could not justly blame an excess into which themselves had fallen. The truth is, the two parties neither did then, nor yet do, follow on all occasions, their own principles, with relation to the royal power, which they extend or contract, as the king is more or less favourable to them.

Be this as it will, the war then waged between the two parties was of no long continuance. They were quickly sensible, that the court aimed to revive their former animosities, in order to weaken them both. The king, to succeed in this design, made the hardships and persecutions which the Nonconformists had suffered from the Church of England, the topic of his discourse in his common conversations. No greater pleasure could be done him, than to entertain him with the particulars of those oppressions. To give the Church of England a still more sensible mortification, he ordered the processes in the ecclesiastical court against the Dissenters to be reviewed. But the Presbyterians who were most concerned, were so wise as not to improve so favourable an occasion to mortify their enemies. On the other hand, though some passionate men amongst the Dissenters, published virulent invectives against the church, to retaliate their ill usage, the Episcopalians unanimously resolved not to answer them, for fear of widening the breach between the two parties, at a time when their union was more than ever necessary. It cannot be denied, that herein their moderation and prudence were exemplary. In general, it may be affirmed, that if some of the Nonconformists, whether Presbyterians or others, suffered

Is thanked for it by the Nonconformists. *Gazettes. Kennet, p. 489. Echard. III. p. 817. Burnet, p. 714.*

The king desirous to disunite the Protestants, *Kennet, p. 490. Burnet. p. 701, 715.*

is mistaken in his aim, and only puts them more upon their guard.

James II. themselves to be transported by their passion into insults upon the Church of England, they were men of no note. The most sensible, and those who had most credit in their party, observed a great moderation. The Episcopalians, on their side, did all that lay in their power to establish union, solely capable of supporting them both. Writings were published from time to time, in which the Churchmen acknowledged their error in driving the Presbyterians to extremities; that they were not sufficiently aware of the artifices of the court, and promised to have for them great condescension, in case affairs were restored upon a good foot. It is true, they are accused of having been no less forgetful of this promise, than of that made when the restoration of Charles II. was transacting. But this concerns the following reigns.

Some bishops go into the designs of the court. *Gazettes, No. 2243, 2246, &c. Echard. III. p. 821. Kennet. An order to the university of Cambridge to admit a Benedictine monk to the degree of master of arts. State Trials. IV. p. 250. Burnet. Kennet.*

If there were Nonconformists who thought themselves obliged to express their gratitude for the king's declaration, by flattering addresses, there were likewise bishops who, with much less foundation, prevailed with their clergy to send addresses of thanks to the king, as for a signal favour to the Church of England. Of this number were Crew bishop of Durham, Barlow of Lincoln, Cartwright of Chester, Wood of Lichfield, and Watson of St. David's. As for Parker bishop of Oxford he was not so successful, since he could find but one clergyman in his whole diocese, who would sign such an address. It may easily be imagined that, had the king's project succeeded, these bishops would not have been the last to embrace the Popish religion.

The steps already made by the king for the interest of the Popish religion, were not thought sufficient by those who aspired to greater advantages. Hitherto the Papists had not been able to procure any preferments in either of the universities, and yet they were passionately desirous to set up there masters and professors of their own religion, in order to become in time heads of some of the colleges. It had been proposed to the king to found a college in each university. But, whether the expence discouraged him, or whatever was the reason, it was thought more proper to introduce Papists into the colleges already founded. The design was begun at Cambridge, where Dr. John Peachell the vice-chancellor received a letter from the king, commanding the university to admit to the degree of master of arts, Alban Francis, a Benedictine monk, without administering any oath whatsoever, notwithstanding any statute or law to the contrary, which the king was pleased to dispense with in favour of the said Alban Francis. The vice-chancellor having communicated this letter to the



the congregation of regents and non-regents, it was unanimously agreed by the members, not to admit Francis, till the king had been petitioned to revoke the mandate. For this purpose, they applied to Christopher Monk, duke of Albemarle, their chancellor, praying his intercession with the king, to which he returned for answer, "That he had tried, but to no effect." Upon this answer, the university sent deputies to London, who were to apply to the earl of Sunderland; but he refused to hear them. Shortly after the king sent a second letter to the university, the same in substance with the former, with this addition, "To do it at their peril." As the university continued to stand their ground, a summons was sent from the new ecclesiastical commissioners, commanding the vice-chancellor to appear in person before them and the congregation, by themselves, or their deputies. In short, by sentence of the court, the vice-chancellor was deprived of his office; but Francis was not admitted. This was the first avowed attempt to introduce Papists into the university. I say avowed, for some might have been received under the pretence of being Protestants. But soon after, Magdalen college in Oxford, the richest in revenue (a), had a more terrible storm to encounter.

The presidentship of that college being vacant the 31st of March, by the death of Dr. Clark, the vice-president gave notice for a new election the 13th of April. But before that day, the members of the college were informed, that the king had granted a particular mandate in favour of Anthony Farmer, a man of ill reputation, who had promised to declare himself a Papist. Whereupon they presented a petition to the king, praying him, either to leave them to the choice of their president, according to their founder's statutes, or to recommend a person who might be more serviceable to his majesty and the college. The answer received from the earl of Sunderland, was, "That the king must be obeyed." Immediately after, the king's mandate was delivered to Robert Charnock (b), a new convert and fellow of the college. This mandate being read in the presence of all the fellows, it was resolved to keep to the day appointed for the election

(a) Though the certain rents of it are but about four or five thousand pounds a year, yet it is thought the improved value of the estate belonging to it is about forty thousand pounds. Burnet

p. 692.

(b) The same who was executed in the reign of king William, for being in a plot for the assassination of that prince, Rapin.

(c),

James II.  
1687.

Feb. 21.

rejected.

Feb. 24.

April 9.

The vice-chancellor  
deprived.  
May 7.

The affair of  
Magdalen  
college in  
Oxford.  
State Trials.  
IV. p. 258.  
Welwood.  
Burnet.  
Kennet.  
p. 502.  
April 9.

April 11.

James II. (c), on which day Dr. Hough was chosen by a great majority.  
1687. The new president was presented to the visitor, the bishop of Winchester, who swore and admitted him to his office.

April 15,  
16. The king was extremely provoked with this election, and  
State Trials. notwithstanding the interposition of the duke of Ormond,  
IV. p. 261. chancellor of the university, the vice-president and fellows were cited to appear before the ecclesiastical commissioners at Whitehall. Accordingly, the 6th of June, six fellows, deputed by the society, appeared before the commissioners, and to the question, "Why they refused to obey the king's "mandate?" they produced their statutes, and the oaths they had taken for the observation of them, by which statutes Farmer could have no pretension. They were ordered to attend again the 22d of the month, on which day they gave in so many allegations against Farmer, (who besides was unqualified by the statutes) that the commissioners were ashamed of him. But as it was the king's cause they were maintaining, they deprived Dr. Hough of his presidentship, and suspended the vice-president and one of the fellows (d). The king being informed of the allegations against Farmer, thought fit to drop his first mandate, and granted a second in favour of Dr. Parker bishop of Oxford.

p. 262.

p. 264.  
June 22.

Aug. 14.

Sept. 4.  
p. 265.

Nov. 21.  
p. 269.

The fellows of the college finding him no better qualified than Farmer, refused to obey the new mandate. This so incensed the king, that he went himself to Oxford, bent at any rate to overcome their obstinacy. He ordered them to attend him at Christ-Church, and spoke to them in term capable of intimidating men of less firmness and resolution. He commanded them to be gone, and to admit the bishop of Oxford their president, letting them know, that otherwise "they should feel the weight of his hand." But instead of obeying, they offered a petition in vindication of their proceedings; but the king would not receive it. At last, after all his menaces, he was forced to leave Oxford, without gaining his point. Shortly after, the king appointed a commission to visit the college, namely, Cartwright, bishop of Chester, Sir Robert Wright, chief-justice of the King's-Bench, and Sir Thomas Jenner, a baron of the Exchequer. These commissioners treated the fellows very uncivilly, abstaining not even from scurrilous and abusive language. At last, seeing it was not possible to overcome them, they

(c) The election was put off to April the 15th: See State-Trials, Tom. IV. p. 259.

(d) Dr. Aldworth, the vice-president, and Dr. Fairfax.



found an expedient to save in some measure the king's honour, by an ambiguous declaration, to which the fellows were willing to submit. But this satisfied not the king, who, the commissioners said, expected some farther submission, which they advised them to make, "by acknowledging their contempt to his sacred majesty in person, and to his letters; that they should promise to behave themselves loyally for the future; that they should own the proceedings and legality of the court, implore his majesty's pardon, and lay themselves at his feet; and that they should declare their entire submission to the bishop of Oxford as their president." Of twenty-seven fellows, only Charnock and another (e) offered to sign this submission. At last, the commissioners, impowered by the king, deprived the twenty-five (who refused to subscribe the declaration) of their fellowships, and expelled them from the college, for disobedience to the king's commands. They all protested against the sentence, declaring, "They would use all just and legal ways of being relieved." The sentence, however, was confirmed by the ecclesiastical commissioners, and aggravated, by declaring the president and fellows incapable of being admitted to any ecclesiastical dignity or benefice. The president refused to put the bishop of Oxford in possession of his lodgings, which were therefore broke open. The college was filled with Papists, and Charnock was made vice-president. Though this affair held from the beginning of June, to the end of October, I was willing, in order to avoid repetition, to finish the narrative at once.

James II.  
1687.

P. 277.

The fellows  
expelled.  
Nov. 16.  
p. 278.

The king discovered on all occasions his extraordinary zeal for the advancement of his religion; but chiefly in the disposal of all places and offices in his gift. For some time, he had scarce preferred any, but those who were willing to purchase his favour by changing their religion, and often displaced those who testified a zeal for the Protestant religion, without regard to past services or old offences. Many of those who had been most active for the bill of exclusion, were caressed and courted, provided they would embrace the king's religion; as for instance, the earl of Sunderland. But an adherence to the Protestant religion, was a sufficient cause to remove those who had done him the most important services on the same occasion; witness his brothers-in-law the earls of Clarendon and Rochester. Charles Talbot,

The king  
earnest to  
make converts.  
Gives all  
places to  
Papists.  
Echard.  
III. p. 328.

(e) Dr. Thomas Smith. See State-Trials, Tom. IV. p. 277.

James II.  
1687.

The judges  
are his  
tools.  
Kennet.  
p. 491.

earl of Shrewsbury, who some years before had turned Protestant, lost his regiment of horse, for refusing to turn to Popery. The lords-lieutenants of counties were almost all Papists. As for the judges, some were Papists, and the rest, though Protestants, were ready to obey all the king's commands. If any of them proved too scrupulous, they were immediately displaced, for others more compliant. These mercenary judges, when they went their circuits, received orders from the chancellor, to use all their authority for confirming the right assumed by the king of dispensing with the laws, and to discourage, as much as possible, those whom they should not find disposed to submission. These orders were executed with great rigour and insolence.

Every one plainly saw the tendency of these proceedings, for the king was open and undisguised. Nevertheless, there were even among the lawyers themselves, some that affected to approve of all his actions, and by their addresses, to encourage him to proceed. To show the excessive flattery of these men, I shall here insert an address presented to the king on the 11th of June, by the society of the Middle-Temple,

" May it please your majesty,

The address  
from the  
Middle-  
Temple.  
Gazettes,  
No. 2250.  
Echard.  
III. p. 828.

" **W**E, your majesty's dutiful subjects, to our great joy, have received a happy occasion of making this declaration of our gratitude: and as we know that your majesty's goodness is the greatest that ever was shown by a prince to his subjects, so we with the voice of men and angels, to return sufficient thanks for your majesty's condescension and clemency to all your subjects, in your gracious declaration for a toleration. And as for this compassion and goodness, thanks ought to be paid your majesty by all your subjects; so we especially of the profession of the law, have most reason to be thankful for the honour you have done us, by asserting your own royal prerogatives, which is the very life of the law, and our profession. Which prerogatives, as they were given by God himself, so we declare, That no power upon earth can diminish them, but they must always remain entire and inseparable to your royal person. Which prerogatives, as we have studied to know them, so we are resolved to defend them, by asserting with our lives and fortunes that divine maxim, A Deo Rex, A Rege Lex. And now as a testimony of our perfect satisfaction in this

" our



“ our address and acknowledgement, we have subscribed James II.  
 “ our names, that your majesty may know us to be yours; 1687.  
 “ and that the rest of our profession may follow our example:  
 “ and therefore we beg your majesty will accept this address  
 “ from us, who in conclusion make bold to offer our best  
 “ wishes, and hearty desires, that your majesty’s councils  
 “ may prosper in wisdom, your kingdoms flourish in peace,  
 “ and your royal person enjoy a long, happy, and glorious  
 “ reign over us.”

With all this, the king was disappointed in an affair which he earnestly laboured, and that was the gaining the parliament to approve of the power claimed by him of dispensing with the laws. The parliament should have met the 28th of April, and it was expected accordingly. But the king, not finding things so ripe as he desired, had prorogued it to the 22d of November. Some days before this prorogation a pamphlet had been dispersed in London, tending to give the parliament a disadvantageous idea of the king, in the supposition that they were going to sit. Here is a short extract of this pamphlet, which was ascribed to Dr. Burnet, then in Holland.

The king  
 farther pro-  
 rogues the  
 parliament.  
 Kennet.  
 P. 494.  
 Echard.  
 III. p. 829.

“ Our king has given such testimonies of his zeal for his  
 “ religion, that we see among all his other royal qualities,  
 “ there is none for which he desires and deserves to be so  
 “ much admired, since even the passion of glory, of ma-  
 “ king himself the terror of all Europe, and arbiter of  
 “ Christendom, (which as it is natural to all princes, so  
 “ must it be most particularly so to one of his martial and  
 “ noble temper) yields to his zeal for his church; and  
 “ that he, in whom we might have hoped to see our Ed-  
 “ ward the third, our Henry the fifth revived, chuses rather  
 “ to merit the heightening his degree of glory in another  
 “ world, than to acquire all the conquests that this low  
 “ and vile world can give him: and that, instead of making  
 “ himself a terror to his neighbours, he is contented with  
 “ the humble glory of being a terror to his own people; so  
 “ that instead of the great figure this reign might make in  
 “ the world, all the news of England is now only concern-  
 “ ing the practices on some fearful mercenaries.”

A libel a-  
 gainst the  
 king.

In the mean time, the king continued to take infinite pains to gain the members of parliament. He closetted, one by one, all that were in London, and represented to them what he thought capable to convince them of the necessity to abolish the penal laws, for the good of the king-  
 dom,

The king  
 closetts seve-  
 ral mem-  
 bers of par-  
 liament to  
 gain them.  
 Walwood,

**James II.** dom, and enforced his arguments with menaces and promises. It is not improbable, but some might be gained, but he could never be assured of a majority of voices. This determined him at last to dissolve the parliament, by proclamation the 2d of July.

And at last dissolves the parliament. The members of last parliament vindicated from an Accusation,

When the firmness of the members of this parliament, as soon as they believed the interests of religion were at stake, is compared with their extreme zeal for the king in the beginning of their session, it must be inferred, that their compliance was owing purely to their mistake in their good opinion of the king, and that their firmness proceeded from their being at last undeceived. They are therefore unjustly accused of intending to sacrifice to the king, the interest of religion and their country. They demonstrated the contrary in resisting the temptations the king laid before them, even in his presence, and face to face. This, in my opinion, is the highest degree to which firmness can be carried. They were all, or almost all, members of the Church of England; nay, for the most part, High-Churchmen. I have before given the reason of their excessive zeal and condescension for the king, and therefore need not repeat it. But when they discovered that the point was not to curb the Dissenters, but that the king's designs concerned the Protestant religion, without any distinction of sects, they evidently showed, that they were as good Protestants, as those who accused them of being Papists, or Popishly inclined. This truth will still more plainly appear, in the firm and unshaken courage of the Church of England, on the most important occasion that ever was.

Quo war-  
rantes issued  
out against  
divers corpo-  
rations.  
Kennet.  
p. 495.  
Echard,  
III. p. 830.

After the parliament was dissolved, the king's grand affair was to have a new one entirely at his devotion. But he would not call one, till he was assured of having such members returned, as he should think proper. For this purpose, quo warrantos were issued against several corporations, to the end, that when they were deprived of their charters, the king might grant such new ones, as should render him master of the elections. It may be imagined, that as the courts of justice were disposed, the corporations could not but be deprived of their charters, and for obtaining new ones were obliged to comply with the king's desires. This was one of the methods used by the king, to dispose the people to elect such members as would promote the design of abrogating the penal laws and test. It would be too tedious and difficult to relate all the king's secret methods, the emissaries he sent into the counties and corporations, the instructions

The king's  
practices to  
obtain a fa-  
vourable  
parliament.  
Burnet.  
p. 717, 718.  
Gazettes,  
N. 2302.



structions he gave them to gain the people, the arguments, promises, and menaces they used. All that can be said in general, is, that nothing was forgot which he thought would contribute to the procuring a favourable parliament. To this end, magistrates and lord-lieutenants were displaced, but chiefly, particular men were closetted to engage them in the king's measures. It was also with this view that he made a progress through several counties, and stopped at the cities and great towns, to caress or intimidate the people. But he every where met with such coldness, or rather aversion to his designs, that he durst not venture to call a parliament. As the people were convinced, that the king's design, with whatever pretence he disguised it, was to deprive them of their liberty, and change the established religion, they would not be the instruments of their own ruin. The affair of Magdalen college, which was in agitation during the king's progress, greatly contributed to open the eyes of the most blind, and exasperate the nation. The king would have a parliament, which should consent to the abrogation of the penal laws and test, or grant him a power of dispensing with them, at a time when his whole conduct discovered a settled design of planting the Popish upon the ruins of the Protestant religion. Besides, it was manifest he did not ask this power as a favour, but insisted upon it as a right, which he had already assumed, without the concurrence of the parliament.

At last, the king showed so open a contempt of the law, that no person could mistake him. After sending, as we have seen, a solemn embassy to Rome, he would have a nuntio in ordinary residing at his own court. The pope had, the last year, nominated for this employment, Ferdinando Dadda, domestic prelate to his holiness, who had been about the king ever since his accession to the crown, and was the queen's great favourite. He had been received as nuntio, but privately, and without the people's knowledge. But now the king having entirely pulled off the mask, was for honouring him with a public reception; though to assume the character of the pope's nuntio was high-treason. To give more lustre to the nuntio, he was first consecrated archbishop of Amasia in the royal chapel, after which, on the 3d of July, he made his public entry at Windsor, with great pomp and magnificence. It was a very surprizing spectacle to Protestants, to see a nuntio from the pope in his pontificalibus, preceded by a cross-bearer and a train of priests and monks, in the habits of their respective orders. Mean while,

James II.  
1687.

The public  
entry of the  
pope's  
nuntio at  
Windsor.  
Kennet,  
p. 494.  
Burnet,  
p. 716.  
Echard.  
III. p. 839.  
Welwood.

**James II.** while, on this very occasion, the king received an unexpected mortification; for having ordered Charles Seymour, duke of Somerset, to attend the nuntio to his audience, he desired his majesty to excuse him from an office which the laws of the land made criminal. This so incensed the king, that he removed him from his places of gentleman of the bed-chamber, and colonel of dragoons. Henry Fitz-roy, duke of Grafton, less scrupulous, accepted the office refused by the duke of Somerset. Some have believed, that Dadda was one of the king's principal counsellors in affairs of religion. But it is not likely he would act so contrary to the sentiments of the pope, who by no means approved the king's conduct. The same thing cannot be said of father Petre, or Peters, the king's confessor, who was the first mover of all the engines to advance the progress of Popery. He was publicly received into the council the 11th of November, contrary to the opinion of the most eminent Papists, who justly feared the king's affairs would thereby be very much prejudiced.

Father  
Petre re-  
ceived into  
the council.  
Gazettes.  
Burnet.

The king re-  
ceives fa-  
vourably the  
distressed  
Protestants  
from France.  
Kennet.  
p. 499.  
Echard.  
III. p. 840.

Though the king had given convincing proofs of his aversion to the Protestant religion, he favourably received the French Protestants, who took sanctuary in England on account of the rigours exercised against them in France. He not only granted them his protection, but also large sums, besides his licence to encourage a public collection. Some ascribe this to policy, in order to intimate to the English, how little ground they had to fear such treatment in England, from a king, who was so charitably compassionate to the misfortunes of foreigners, persecuted in their own country. But as the king himself did not discover the motives of this conduct, they can only be conjectured. Thus much is certain, the French preachers thought themselves under such obligations to the king, that they were amongst the most forward to display his virtues in their sermons, whenever an occasion offered. I myself remember to have heard a preacher in the church of the Savoy launch out into the profanest flattery (f).

Death of the  
duke of  
Bucking-  
ham.  
April 16.

George Villiers, duke of Buckingham, who now made a contemptible figure, died this year in Yorkshire, just as he had lived, that is, without any sense of religion. This same year death likewise seized the famous Sir William Petty,

(f) It is thought, that the king's favours to the French refugees, were chiefly to engage them to espouse and

abet the king's power of dispensing with all penal laws in religion. See Kennet, p. 499. Note (a).

phy-



physician and fellow of the Royal Society, after having published several useful and valuable writings.

James II.  
1687.

I am now come to the year 1688, a critical year to England, the first half of which portended to the English the loss of their religion and liberties. James II had promoted his great work in the three years he had been on the throne, with a surprising rapidity and success. He had invested himself with an absolute power, that hardly suffered any contradiction. The laws of the land were openly violated. The privy-council was almost wholly Popish, and under the direction of a Jesuit. The most considerable places in the court and kingdom were possessed by men of the same religion. The test and penal laws were insufficient fences to secure religion, for which they were intended. In a word, the king was resolved to complete his work at all events, and an army of fifteen thousand men, encamped within a few miles of London, besides the assistance of France, seemed to promise him success. But what was more extraordinary was, that Protestant corporations, when their religion was so violently attacked, sent their addresses of thanks to the king, as for a great favour, publicly promising to chuse such members for the ensuing parliament, as should concur with his measures. All this gave just occasion to fear, that no remedy could possibly be found for the miseries of the nation, which daily increased. The only refuge which seemed to be left, was the princess of Orange, presumptive heir of the crown, who, like another Elizabeth, would restore things to their former state, when she should ascend the throne. But, besides that the king, who was but in his fifty-fifth year, might yet live a great while, an astonishing proclamation, published the 2d of January, to notify the queen's being with child, and to order public thanksgiving to God, entirely destroyed the hopes which had been entertained.

1688.  
The king  
pushes his  
designs.  
Echard.  
III. p. 842.

The Papists were transported with this agreeable news. Some even began to debate the question, whether a daughter born since the king's advancement to the throne, ought not to take place before the princess of Orange, born while he was duke of York? But this question was very needless. Every one was persuaded, the Papists through hope, and the Protestants through fear, that the queen would be delivered of a prince. It is very certain, the Protestants from this time began to form suspicions about the queen's pregnancy. This appeared in several pamphlets, dispersed thro' London, some of which were even dropped in Whitehall.

The queen  
with child.  
Gazettes,  
No. 2309.  
Kennet.  
p. 496.  
Echard.  
III. p. 843.

Suspicious  
thereupon.

James II. Hitherto, the sole foundation of the suspicion, that the  
 1688. queen's pregnancy was a cheat, consisted in her having been  
 so many years childless. But this foundation was too weak  
 to prove the certainty of an imposture. It was not impossible  
 for the queen to be with child; but on the other hand,  
 neither was it impossible that the queen should be willing to  
 suppose an heir. The extreme zeal of the king and queen,  
 and of most of their counsellors and confidants, for their  
 religion, rendered such a suspicion plausible to the Protestants.  
 Histories have recorded instances of the like impostures, as in  
 Spain, and in England itself, where it is pretended, that  
 queen Mary, to deprive her sister Elizabeth of the succession,  
 would have supposed an heir, had not her husband king  
 Philip prevented it. For this reason, the story of queen  
 Mary's sham-conception, as delivered by Fox, was reprinted  
 and dispersed thro' the kingdom, with this title, "Idem  
 " Iterum, or queen Mary's Big-Belly." Another cause  
 which contributed greatly to corroborate this suspicion, was  
 the indiscretion of some Jesuits, who published that she  
 would certainly be delivered of a prince. They pretended,  
 that this conception was miraculous, and the effect of a solemn  
 petition, which the late deceased duchess of Modena had put  
 up in Heaven to the blessed Virgin Mary, or of a vow the  
 queen had made to our Lady of Loretto, with the present of  
 a golden image enriched with precious stones. As on pre-  
 tence that the queen had been several years childless, her  
 pregnancy could not be deemed supernatural, there was no  
 necessity to ascribe it to a miracle, of which there could be  
 no certainty. So this needless precaution served only to con-  
 firm the suspicion.

Kennet.  
 p. 497.  
 Echard.  
 III. p. 843.

A miracle  
 pretended.

The king  
 congratu-  
 lated by nu-  
 merous ad-  
 dresses.  
 Gazettes,  
 No. 2311.  
 &c.  
 Echard.  
 III. p. 844.

The queen's pregnancy produced many congratulatory  
 addresses. Some of these carried their compliments and  
 flattery to the last excess. This is no wonder. Most of the  
 lords-lieutenants, justices, and magistrates of the towns,  
 being devoted to the king, it was not difficult for them to  
 persuade the corporations, that these congratulations to the  
 king were the just tribute of their duty. This being once  
 inculcated, they drew up the addresses themselves, and pro-  
 cured such subscriptions as they thought proper, thereby  
 causing the corporations to say what they pleased. Were  
 addresses to be considered, as containing the real sentiments  
 of the people, it might be said, that all the English nation  
 was transported with joy, through the hopes of a Popish  
 successor. But the nation soon discovered directly opposite  
 sentiments. Besides, it appears, the king did not rely on  
 this



this general concurrence of his subjects, since he dared not to call a parliament, whose approbation and compliance were the great object of his desires. James II. 1688.

Besides the forementioned methods, which the king used to advance the Popish religion, there was still another from which he promised himself great success. Some time since, the Romish priests and Jesuits had printed and dispersed a great number of controversial writings, which had been answered by Tillotson, Tennison, Stillingfleet, Sherlock, and others, in a manner which in all appearance was not agreeable to the Papists. The king fearing, without doubt, that his doctors would not be a match for the champions of the church of England, published a proclamation, grounded upon a statute made the 14th of Charles II, "prohibiting the printing and selling all unlicensed and treasonable books and pamphlets, under the pains and penalties provided by the said act." Under this name were comprehended the controversial books published by the Protestants, on a pretence, that they encouraged and fomented animosities amongst his subjects (a).

Books of controversy published. Echard, III. p. 845.

Feb. 10, Gazettes, No. 2321. Forbidden by the king.

The king's grand design, as has been seen, was to repeal the test and penal laws, and for that purpose he wished to have a parliament at his devotion. He had already abrogated these laws by his own authority, but he daily found, that this did not suffice to lead his subjects to the degree of compliance he desired. He thought therefore, if the consent of the prince and princess of Orange could be obtained, it would be a great step towards obtaining the same thing of the parliament. To that end, he resolved to sound the inclinations of the prince of Orange, without his appearing in it. He employed Mr. James Stewart (b), pensionary Fagel's acquaintance, who writ to that minister, endeavouring to persuade him, that it was the interest of England, and of the prince and princess of Orange, that the test should be abrogated, and the laws against the Catholics repealed. This letter coming only from a private man, the prince would not allow Mr. Fagel to return an answer. Mr. Stewart in vain renewed his instances for an answer, till at

Letters between Mess. Stewart and Fagel relating to the test. Burnet, p. 731. Welwood, p. 190. Kennet, p. 491. Echard, III. p. 845.

(a) About this time it was, that in order to retain the poorer sort of people from letting their children be enticed into the Popish schools and seminaries erected in and about London, charity-schools began to be set up in that great and noble city. The first schools of this kind were opened

at Norton-Folgate, and St. Margaret's Westminster, on Lady-Day, 1683. Kennet, p. 508.

(b) A Scottish lawyer, whom king James had pardoned, and received into favour, after a long exile. Kennet, p. 491. Burnet, p. 731.

James II. last, he was obliged to acquaint Mr. Fagel, that his first letter was writ by the king's direction, who desired to have the opinion of the prince and princess upon the affair. This, joined to the false report propagated in London, that the prince and princess of Orange had given their consent to the abrogation of the test and penal laws, forced Mr. Fagel at last to answer Mr. Stewart, and let him know the sentiments of the prince and princess of Orange.

The letters of these gentlemen have made so much noise in the world, and are so universally known, that I do not think it necessary to insert them. I shall content myself with briefly refreshing the reader's memory with the substance of Mr. Fagel's answer. He told Mr. Stewart, "That it was the opinion of the prince and princess, that no Christian ought to be punished for his conscience, or ill used because he differed from the established religion, and therefore could consent, that the Roman Catholics should enjoy a full liberty of conscience. That as to the Nonconformists, their highnesses did not only consent, but heartily approved of their having an entire liberty of conscience, for the exercise of their religion, without any trouble, hindrance, or molestation on that score. — But their highnesses could not by any means agree to the repeal of the test, and those other penal laws, that tended to the security of the Protestant religion, since the Roman Catholics received no other prejudice from these, than their being excluded from parliament and public employments; and that by them the Protestant religion is sheltered from all the designs of the Roman Catholics against it, or against the public safety."

This answer was supported with reasons so clear and solid, that Mr. Stewart finding himself too weak for such an adversary, thought it more adviseable to deny all correspondence with Mr. Fagel on this subject, in order to destroy the authority of Mr. Fagel's answer, which had been printed and dispersed through England and all Europe. The pensionary, provoked at this proceeding, sent a letter to the Marquis of Albyville, the English ambassador at the Hague, wherein he called him to witness, that the prince and princess of Orange had declared their thoughts to him concerning the penal laws, in the same manner as he had represented them; and that Albyville had acquainted the king with it long before he wrote his letter. He complained of the earl of Sunderland, for having assigned an allowance to print a pamphlet



phlet (c), which asserted, that the answer of Mr. Fagel to James II. Mr. Stewart was supposititious, though he himself had seen 1688. the original, and knew that the king had also seen it. This last letter was likewise printed in French and English, and dispersed. All this was extremely injurious to the king, and began to give the English hopes, that the prince and princess of Orange would not abandon them in their pressing necessities. It must be observed, that Mr. Fagel's letter to Mr. Stewart was writ on November the 4th, the last year before the queen's pregnancy was divulged. But this affair became not public, till the beginning of the year 1688.

The refusal of the prince and princess of Orange to consent to the abrogation of the test and penal laws, served only to inflame the king's zeal, and oblige him to use fresh endeavours to have a parliament at his devotion. He sent therefore emissaries into the several counties, to try to secure the elections, before he ventured to call a parliament. But the more solicitous he was to gain this point, the less inclination he found in the people, who, on so important an occasion, were unwilling to trust their interests with men devoted to the court, as the king desired. Wherefore the king, foreseeing all his artifices would prove unsuccessful, and that he should at last be obliged to use force, gave out commissions for raising new troops, for the increasing of his standing army; and likewise caused a larger fleet to be equipped. The new commissions were almost all given to Irish and Popish officers.

Moreover, he wrote, the 17th of January, to the States-General, to demand the six English and Scotch regiments that were in their service. The 2d of March he issued out a proclamation, "Forbidding his natural born subjects to enter or list themselves in the service of any foreign prince or state, either by sea or land."

The States did not think proper to send these regiments to the king in the present juncture. They returned a civil answer, and declared, That having examined their engagements, they could find no agreement or capitulation that could oblige them to grant his majesty's demands, except when he was in war with some of his neighbours, or there was an insurrection at home. That they had accordingly sent the six regiments into England in the year 1685, at the time of the duke of Monmouth's rebellion. But that now the king being in peace with his neighbours, and free from

(c) Intitled, "Parliamentum Pa- " king and people in a healing par-  
" cificum; or, the happy union of " liament." Kennet, p. 492.

James II. disturbances at home, they saw no reason that could oblige  
 1688. them to send back those troops. The king, not satisfied  
 ——— with this answer, renewed his instances. But the States, in  
 showing how these regiments were formed, and the treaties  
 which had been made about them, insisted, that they were  
 obliged to send them back only in the two cases above-men-  
 tioned, and that the king was not at present in either. At  
 last, after a third fruitless attempt, the king, by a procla-  
 mation, called home all his subjects which were in the service  
 of the States-General. Whereupon, the prince of Orange  
 offered passes to all the officers of the six regiments that  
 were willing to return home, which about forty of them ac-  
 cepted.

March 14.  
 Gazettes.  
 No. 2330.

Gazettes,  
 No. 2342.  
 Kennet.  
 p. 508.  
 Echard.  
 III. p. 856.

Though the king had published last year a declaration,  
 for an entire liberty of conscience to all his subjects, and,  
 by virtue thereof, had filled almost all the offices with Ca-  
 tholics, he thought fit to publish a second upon the same  
 subject, the 27th of April this year. Perhaps he had a mind  
 to show, that though he was desirous of having what he had  
 done, confirmed by parliament, he could, however, pro-  
 ceed without their concurrence, and act by absolute power,  
 Perhaps too, he intended to bring things to a crisis, being  
 incessantly pushed by his Popish counsellors, who were for  
 improving the occasion offered them by the king's zeal. The  
 declaration was as follows :

“ James Rex,

A second de-  
 claration for  
 liberty of  
 conscience.

“ OUR conduct has been such in all time, as ought to  
 “ have persuaded the world, that we are firm and con-  
 “ stant to our resolutions; yet that easy people may not be  
 “ abused by the malice of crafty wicked men, we think fit  
 “ to declare, that our intentions are not changed since the  
 “ 4th of April 1687, when we issued out our declaration for  
 “ liberty of conscience, in the following terms :” (Here the  
 declaration was recited verbatim, and then it follows) “ Ever  
 “ since we granted this indulgence, we have made it our  
 “ principal care to see it preserved without distinction, as we  
 “ are encouraged to do daily by multitudes of addressees, and  
 “ many other assurances we receive from our subjects of all  
 “ persuasions, as testimonies of their satisfaction and duty;  
 “ the effects of which we doubt not but the next parliament  
 “ will plainly show; and that it will not be in vain, that we  
 “ have resolved to use our uttermost endeavours to establish  
 “ liberty of conscience, on such just and equal foundations,  
 “ as will render it unalterable, and secure to all people the  
 free



“ free exercise of their religion for ever; by which future James II.  
 “ ages may reap the benefit, of what is so undoubtedly for 1688.  
 “ the general good of the whole kingdom. It is such a se-  
 “ curity we desire, without the burthen and constraint of  
 “ oaths and tests, which have been unhappily made by some  
 “ governments, but could never support any: nor should  
 “ men be advanced by such means to offices and employ-  
 “ ments, which ought to be the reward of services, fidelity  
 “ and merit. We must conclude, that not only good  
 “ Christians will join in this, but whoever is concerned for  
 “ the increase of the wealth and power of the nation. It  
 “ would, perhaps, prejudice some of our neighbours, who  
 “ might lose part of those vast advantages they now enjoy,  
 “ if liberty of conscience were settled in these kingdoms,  
 “ which are, above all others, most capable of improve-  
 “ ments, and of commanding the trade of the world. In  
 “ pursuance of this great work, we have been forced to  
 “ make many changes both of civil and military officers  
 “ throughout our dominions, not thinking any ought to be  
 “ employed in our service, who will not contribute towards  
 “ establishing the peace and greatness of their country,  
 “ which we most earnestly desire, as unbiaſſed men may  
 “ see by the whole conduct of our government, and by the  
 “ condition of our fleet, and of our armies, which, with  
 “ good management, shall be constantly the same, and  
 “ greater, if the safety, or honour of the nation require it.  
 “ We recommend these considerations to all our subjects,  
 “ and that they will reflect on their present ease and hap-  
 “ piness, how far above three years that it hath pleased God  
 “ to permit us to reign over these kingdoms, we have not  
 “ appeared to be that prince, our enemies would have made  
 “ the world afraid of; our chief aim having been not to be  
 “ the oppressor, but the father of our people; of which we  
 “ can give no better evidence, than by conjuring them to  
 “ lay aside all private animosities, as well as groundless  
 “ jealousies, and to chuse such members of parliament, as  
 “ may do their parts to finish what we have begun for the  
 “ advantage of the monarchy, over which Almighty God  
 “ has placed us; being resolved to call a parliament, that  
 “ shall meet in November next at farthest.”

The king was not satisfied with publishing this declaration  
 in the usual method, but thinking, without doubt, that, in  
 so important an affair, extraordinary formalities were to be  
 observed, he issued out an order of council, enjoining the

An order to  
 the bishopsto  
 see it read in  
 all churches  
 and chapels.  
 May 4.  
 Gazettes.

James II. 1688. bishops to cause it to be sent and distributed throughout their several dioceses, to be read at the usual times of divine service, in all churches and chapels, on certain days named in the order. Some believed, the king had two views in this order, first, to mortify the Church of England, against which he had for some time showed great resentment: secondly, to lay the bishops under a necessity, either of making themselves in some measure the instruments of his designs against the Protestant religion, or of incurring the penalties of their disobedience in case of a refusal.

Kennet.  
p. 509.  
Burnet.  
p. 736.  
Welwood.

Several bishops meet  
and debate  
about it.  
Kennet,  
p. 509.

Upon the receipt of this order, several bishops, who were in London, assembled at the archbishop's palace at Lambeth, to consult how they were to behave upon so nice an occasion. For they were necessarily, either in obeying the king, to approve by their conduct this violation of the laws, and betray the interests of the Protestant religion, or in refusing to obey, to draw upon themselves the penalties which, in all appearance, would be inflicted for their disobedience. These difficulties were debated in this assembly with all the care so important an affair required, after they had implored the divine assistance by extraordinary prayers. The result of their conference was, that it was better to obey God than man, and their case being such, that they could not obey the king without betraying their own consciences, they ought without further consideration to expose themselves to the approaching storm, rather than sacrifice the interests of God and the church. This resolution was grounded upon four considerations. 1. That many would justly deem the clergy either cowards or hypocritical time-servers, in publishing what they thought illegal, and illegally sent to them. 2. That many who had votes for parliament-men would take this for the consent of the publishers, and be strengthened in the chusing such men as should be friends, not only to the indulgence, but to the foundation of it, the dispensing power. 3. That the world would have reason to take their publication for an approbation, because there could be no other intention in ordering it to be published, but to make the clergy parties to it. 4. That after this they must expect farther things to be published by them, at which they must make a stand; and their making a stand when they had lost their reputation would be of no force.

Kennet,  
p. 510.

They petition the king to be excused from sending it to their clergy.

Pursuant to this resolution, the consulting bishops, being seven, before they parted drew up a petition, and subscribing it the same day, the 18th of May, six of them

(d)



(d) crossed the water to Whitehall, to present it to the King, James II. without acquainting any person with their design. Their names were Sancroft archbishop of Canterbury, Lloyd bishop of St. Asaph, Kenn of Bath and Wells, Turner of Ely, Lake of Chichester, White of Peterborough, and Trelawny of Bristol. Their petition ran thus :

Kennet,  
p. 511.  
Echard,  
III. p. 859.  
Burnet,  
p. 738.  
Welwood.

To the King's most Excellent Majesty.

The humble Petition of William archbishop of Canterbury, and divers of the suffragan bishops of that province, now present with him, in behalf of themselves and other of their absent brethren, and of the inferior clergy of their respective dioceses.

“ Humbly sheweth,

“ **T**HAT the great averfeness they find in themselves, to  
 “ the distributing and publishing in all their churches,  
 “ your majesty's late declaration for liberty of conscience,  
 “ proceeds neither from any want of duty and obedience to  
 “ your majesty, (our holy mother the Church of England be-  
 “ ing, both in her principles, and in her constant practice,  
 “ unquestionably loyal, and having, to her great honour,  
 “ been more than once publicly acknowledged to be so by  
 “ your gracious majesty) nor yet from any want of tender-  
 “ ness to Dissenters, in relation to whom we are willing to  
 “ come to such a temper, as shall be thought fit, when the  
 “ matter shall be considered and settled in parliament and con-  
 “ vocation : but among many other considerations, from this  
 “ especially, because that declaration is founded upon such a  
 “ dispensing power, as hath been often declared illegal in  
 “ parliament, and particularly in the years 1662, and 1672,  
 “ and in the beginning of your Majesty's reign ; and is a mat-  
 “ ter of so great moment and consequence to the whole na-  
 “ tion, both in church and state, that you petitioners cannot  
 “ in prudence, honour, or conscience, so far make them-  
 “ selves parties to it, as the distribution of it all over the na-  
 “ tion, and the solemn publication of it once and again, even  
 “ in God's house, and in the time of his divine service, must  
 “ amount to, in common and reasonable construction. Your  
 “ petitioners therefore most humbly and earnestly beseech  
 “ your majesty, that you will be pleased not to insist upon  
 “ their distributing and reading your majesty's said declara-

(d) The archbishop, being in an ill state of health, did not go to Whitehall, Burnet, p. 739.

“ tion ;

James II. "tion; ' and your petitioners, as in duty bound, shall ever  
1688. " pray, &c."

The king's  
answer.

Kennet,

p. 511.

Burnet,

p. 739.

Echard,

III. p. 859.

The king, surprized and incensed at this petition, answered in a very angry tone: " I have heard of this before, but did not believe it: I did not expect this from the Church of England, especially from some of you. If I change my mind, you shall hear from me; if not, I expect my command shall be obeyed." The bishops replied, " We resign ourselves to the will of God," and then immediately retired.

Id. p. 876.

Kennet,

p. 515.

Burnet,

p. 740.

The bishops of Durham and Rochester, both ecclesiastical commissioners (e), caused the declaration to be read in their dioceses. But it generally happened, wherever it was read, that the congregation immediately left the church. One minister, before he began to read it, told his flock, " That he could not refuse the order sent him to read the declaration, but that he knew no order which obliged them to hear it." In London it was read but in four or five churches (f).

Ibid.

Mean time, the court was unresolved what course to take with the bishops. Not but that they were determined to come to extremities, rather than quit their designs. However, they did not care to begin with the bishops, because of the people's reverence for them. Though the king's council persuaded him to do all things with a high hand, they trembled, however, when they met with any opposition, seeing the great disproportion between the number of Protestants and Papists. They considered, that while every one was submissive, the lords-lieutenants of counties, and the magistrates, all creatures of the king, had great credit and authority; but should the people happen to grow weary of their obedience, and openly resist, their authority would vanish; and it was not probable, the lesser number should subdue the greater. This had been the case in the reign of Richard II, and very lately in that of Charles I. It seems therefore, that prudence required the king carefully to avoid what might produce a sudden revolution, and not to enter upon violent measures, till he had taken greater precautions. For, upon supposition of a rebellion, which was not impossible, if the bishops were proceeded against with rigour, was it not a gross error, to rely on a Protestant army to introduce Popery, and force Protestants

(e) Barlow of Lincoln, and Crofts of Hereford. Kennet, p. 512. Note.

(f) Namely, by Mr. Hall, Dr. Thomson, and Mr. Elliot. Kennet,

p. 511. Note (b). Burnet says it was read in seven churches in London, and in not above two hundred all England over, p. 740.



to submission? But, on the other hand, those who directed James II. the king in his counsels and undertakings, had not his interest chiefly in view, but that of the Catholic religion. They considered the king only as an instrument to be used, at all events, whilst he was alive, for fear they should suddenly lose him. God seems to have blinded this prince, to prevent his seeing what every one else clearly saw, in order to throw him upon his ruin. He was therefore resolved to proceed with the utmost rigour against the bishops, and for that purpose they were summoned to appear before the council the 8th of June. 1688.

The bishops summoned before the council.

On their appearance, they were asked, "Whether they owned the petition?" The bishops surprized at this question, since they themselves had presented the petition, feared some snare was laid for them, and therefore at first forbore to give a direct answer (g). At last, the archbishop confessed, that it was written with his own hand, and that the rest had signed it; adding withal, they had done nothing but what they were ready to justify. The chancellor endeavoured to make them sensible of the ill consequences of their disobedience, which tended to diminish the king's authority, and to disturb the peace of the kingdom. At last, he asked them, whether they would give their recognizances to appear before the court of king's bench to answer this high misdemeanour? This they all refused, insisting on the privilege of their peerage, which they were resolved to maintain, as well as the rights of the church, being equally bound by their callings to oppose all innovations both in government and religion. The chancellor, surprized at their constancy, threatened to send them to the Tower, and to prosecute them to the utmost rigour of the law, unless they immediately recanted, and withdrew their petition. They unanimously answered, That they were ready to go wherever his majesty was pleased to send them; that they hoped the King of Kings would be their protector and their judge; that they

Their appearance and behaviour. Kennet, p. 511. Burnet, p. 741. Echard. III. p. 860.

(g) It seems, as the bishops were going to the council, they were advised to remember, that no man was obliged by the law to accuse himself. Accordingly, when the king in council, holding the petition in his hand, asked them whether they had signed that paper? they made a low bow, and said nothing. What, says the king, do you deny your own hands? upon which they silently bow'd again. Then the king told them, if they would own it to be their hands, upon his

royal word not a hair of their heads should be touched. Whereupon the archbishop says, "Relying on your Majesty's word, I confess it to be my hand:" and so said all the rest. Then being ordered to withdraw, when they were called in again, they found the king vanished, and Jefferies in the chair, who using them very roughly, sent them to the Tower. The translator had these particulars from the late bishop of Durham's own mouth.

feared

James II. feared nothing from men; and that having acted according to law and their own consciences, no punishments should ever be able to shake their resolutions.

They are  
sent to the  
Tower.  
Gazettes,  
No. 2354.  
Kennet,  
p. 512.  
Echard.  
III. p. 861.

Upon this answer, eighteen privy-counsellors, several of them Papists (h), were for sending the bishops to the Tower. A warrant was immediately drawn and signed for their commitment, the reason given being, "For contriving, making, and publishing a seditious libel against his Majesty and his government." It is difficult to conceive, upon what foundation, they could be accused of publishing a petition which they had only delivered to the king himself. However, the attorney and solicitor-general, were ordered to prosecute them for the same the next term. It was not thought proper to send them to the Tower through London, for fear it might occasion a tumult. They were therefore in the most private manner conveyed by water. But people hearing of it, flocked in multitudes to the river-side, and upon their knees desired their blessing, with loud acclamations extolling their constancy. The same spectacle was seen at the tower, where the soldiers of the garrison fell on their knees to beg their blessing.

This was a great mortification to the king, and might have convinced him, that he was yet very far from his aim. But, as I said, the design of his counsellors was to make haste and finish the work begun, for fear some accident should deprive them of their instrument,

The queen  
delivered of  
a prince.  
Gazettes,  
No. 2354.  
Burnet.  
Kennet,  
p. 512.

Suspensions  
relating to  
it.

Two days after the bishops had been sent to the Tower, the 10th of June, the queen was delivered of a prince, who, during the life of his father was known by the name of the "prince of Wales," and afterwards, by some was called the "Pretender." His birth was an occasion of triumph to the Papists, but of astonishment and terror to the Protestants, who saw their hopes defeated, that their misfortunes would end with the death of the king. It is universally known, that the birth of this prince has been very much suspected, and that many did then, and still do, believe it supposititious. Multitudes of papers have been published for and against, some containing the grounds of the suspicions, and others, arguments to remove them. The reader, doubtless, expects not from a foreigner, the decision of a fact which was never perfectly cleared, the imposture whereof rests only upon con-

(h) They were, chancellor Jefferies, the marquis of Powis, the earls of Sunderland, Mulgrave, Huntingdon, Peterborough, Craven, Murray, Middleton, Melfort, and Castlemain; the

lords Arundel, Dartmouth, Godolphin, and Dover: Sir John Ernley, Sir Edward Herbert, and Sir Nicholas Butler. Echard. Tom. III. p. 861.

jectures



jectures and probabilities, and the truth upon suppositions, James II. which indeed are generally true, but of which it cannot be said, that it is impossible they may be sometimes false. In general, it is very certain, the Queen, during the whole time of her pregnancy, was suspected of a design to impose an heir upon the kingdom, and this suspicion was very public. It is also certain, that though the king and queen knew of this suspicion, they took no care to remove it. On the contrary, their whole conduct, as well during the queen's pregnancy, as her labour, gave still greater strength to the suspicion. For a negligence which signifies nothing when there is no suspicion, must be remarked when an imposture is suspected. On the other hand, it seems a standing rule, that, when both parents express not any doubt concerning the birth of their child, no person can be sure they are deceived. But this rule is perhaps not so general and certain as many imagine. It is very good where there is no suspicion of a cheat. But in case a presumptive heir, disinherited by the birth of a child, who comes to take his place, has good proofs that the child is supposititious, certainly the bare owning of this child by both parents, will not invalidate proofs, which I suppose to be full. It is not impossible for a man and wife to suppose a child, through revenge, or some other interest, in order to deprive a presumptive heir of their inheritance. I say, it is not impossible, though it rarely happens. There are however instances to prove the possibility. Indeed, to decide by law, that a child is supposititious, very convincing proofs must be alledged, because the judges, who are obliged to follow the rules of law, are not determined by appearances, however probable they may be. But the case is not the same with the public, on whom very often conjectures grounded upon great probabilities, make as much impression as the strongest proofs. The affair in question having never been legally decided, I can only present the reader with what has been most probably urged pro and con, in order to assist him either to be determined for or against the pretended supposition of the prince of Wales, or to shew him, that he ought to suspend his judgment, till the thing is more plainly discovered. This I propose to do with impartiality, in producing the arguments alledged on both sides.

There are three opinions concerning the real or pretended birth of the prince of Wales.

The first is, that the queen was not with child when she pretended to be so, and that at the time of her pretended delivery, a son was supposed to be born of her. The second is,

that

Sundry opinions concerning the birth of the prince of Wales. Echard.

III. p. 363.

James II. that she was really with child, but that having the misfortune  
 1688. of a miscarriage, she continued still to feign herself big, and  
 at last supposed, or caused to be supposed, a child as born of  
 her body, and that this child dying shortly after, another was  
 substituted in his room, and to this, dying seven weeks after,  
 succeeded another child. The third opinion is, that the  
 queen was really with child, and delivered the 10th of June  
 of a son, the same who is since called the Pretender, and is  
 now at Rome. In confirmation of the first of these opinions  
 it is alleged: 1. That the king, for certain reasons, was be-  
 come incapable of children. 2. That the queen had been  
 seven years without being with child. 3. That now she had  
 never a constant reckoning. 4. That her delivery was sud-  
 den, and immediately after the removing of her lodgings.  
 5. That it was on a Sunday morning, when all the Prote-  
 stant court-ladies were at church. 6. That neither the prin-  
 cess Anne of Denmark, the archbishop of Canterbury, nor  
 the Dutch ambassador, were present at her labour, though  
 they were the three persons who ought principally to have  
 been there. 7. That during the labour, her bed was not  
 left so open as it should have been. 8. That while she went  
 with child, she never satisfied the princess Anne, and many  
 Protestant ladies about her, of her pregnancy, either by let-  
 ting them feel her belly, or see her breasts. 9. Neither did  
 she show the princess any of her milk after her lying-in. 10.  
 That during her labour, a warming-pan was brought into  
 the room, though the weather was extreme hot, and the  
 room heated by a vast crowd of people. Lastly, It was al-  
 leged, that though the king, queen and courtiers, sufficiently  
 knew before the delivery, that the nation suspected an im-  
 posture, they did not use those precautions as they might and  
 ought to have done in such a case; and, instead of putting it  
 beyond all possibility of doubt, they left so many marks of  
 suspicion, as caused infinite doubts and disputes: insomuch  
 that some Roman Catholics themselves owned, "That so  
 " important an affair had been managed with great supine-  
 " ness and imprudence." This is what Mr. Echard says,  
 one of the most moderate historians, who is not to be sus-  
 pected by the king's adherents.

Dr. Welwood is very short in his account of this matter,  
 and contents himself with giving the general opinion, with-  
 out any thing of his own. These are his words:

Extract  
 from Wel-  
 wood.  
 p. 187.

"While the bishops were in the Tower, the Roman Ca-  
 "tholics had their hopes crowned with the birth of a pre-  
 "tended prince of Wales. The fears of a Protestant suc-  
 "cessor,



“cessor, had been the only allay that rendered their prosper- James II.  
 “rity less perfect. Now the happiness of having an heir to 1688.  
 “the crown, to be bred up in their own religion, quashed  
 “all those fears, and atoned for the uncertainty of the king’s  
 “life. It was so much their interest to have one, and there  
 “were so many circumstances that seemed to render his birth  
 “suspicious, that the nation in general were inclinable to be-  
 “lieve, that this was the last effort of the party, to accom-  
 “plish our ruin.”

But the most circumstantial account of this affair, is that of Dr. Burnet, bishop of Salisbury, in the “History of his own Times,” published since his death. As I am to make some remarks on his testimony, it will be necessary to insert the following passage, wherein he expressly speaks of the birth of the prince of Wales.

“I must now look back to England, where the queen’s and from  
 “delivery was the subject of all men’s discourse. And since bishop Bur-  
 “so much depends on this, I will give as full and as distinct net. T. I.  
 “an account of all that related to that matter, as I could p. 748.  
 “gather up, either at that time or afterwards. The queen  
 “had been for six or seven years in such an ill state of health,  
 “that every winter brought her very near death. Those  
 “about her seemed well assured, that she, who had buried  
 “all her children soon after they were born, and had now for  
 “several years ceased bearing, would have no more children.  
 “Her own priests apprehended it, and seemed to wish for  
 “her death. She had great and frequent distempers, that  
 “returned often, which put all people out of their hopes or  
 “fears of her having any children. Her spirits were now  
 “much on the fret. She was eager in the prosecution of all  
 “the king’s designs. It was believed, that she had a main  
 “hand in driving him to them all. And he, perhaps, to  
 “make her gentler to him in his vagrant amours, was more  
 “easy to her in every thing else. The lady Dorchester was  
 “come back from Ireland; and the king went often to her.  
 “But it was visible, she was not like to gain that credit in  
 “affairs, to which she had aspired: and therefore this was  
 “less considered.

“She had another mortification, when Fitz-James the  
 “king’s son was made duke of Berwick. He was a soft and  
 “harmless young man, and was much beloved by the king:  
 “but the queen’s dislike kept him from making any great  
 “figure. He made two campaigns in Hungary, that were lit-  
 “tle to his honour: for, as his governor diverted the allow-  
 “ance that was given for keeping a table, and sent him al-  
 “ways

James II. 1688. “ ways to eat at other tables, so, though in the siege of Buda  
 “ there were many occasions given him to have distinguished  
 “ himself, yet he had appeared in none of them. There was  
 “ more care taken of his person, than became his age and  
 “ condition. Yet his governor's brother was a Jesuit, and  
 “ in the secret : so every thing was ventured on by him, and  
 “ all was forgiven him.

“ In September, the former year, the queen went to the  
 “ Bath, where the king came and saw her, and staid a few days  
 “ with her. She after that pursued a full course of bathing :  
 “ and having resolved to return in the end of September, an  
 “ accident took her to which the sex is subject ; and that  
 “ made her stay there a week longer. She came to Windsor  
 “ on the 6th of October. It was said, that at the very time  
 “ of her coming to the king, her mother, the duchess of  
 “ Modena, made a vow to the lady Loretto, that her daughter  
 “ might by her means have a son. And it went current,  
 “ that the queen believed herself to be with child in that very  
 “ instant in which her mother made her vow : of which, some  
 “ travellers have assured me, there was a solemn record made  
 “ at Loretto. A conception said to be thus begun, looked  
 “ suspicious. It was now fixed to the 6th of October : so  
 “ the nine months were to run to the 6th of July. She was,  
 “ in the progress of her big belly, let blood several times :  
 “ and the most astringent things that could be proposed were  
 “ used.

“ It was soon observed, that all things about her person  
 “ were managed with a mysterious secrecy, into which none  
 “ were admitted but a few Papists. She was not dressed nor  
 “ undressed with the usual ceremony. Prince George told  
 “ me, that the princess went as far in desiring to be satisfied,  
 “ by feeling the motion, after she said she was quick, as she  
 “ could go without breaking with her : and she had some-  
 “ times staid by her even indecently long in mornings to see  
 “ her rise, and to give her her shift : but she never did either.  
 “ She never offered any satisfaction in that matter by letter to  
 “ the princess of Orange, nor to any of the ladies of quality,  
 “ in whose word the world would have acquiesced. The  
 “ thing, upon this, began to be suspected : and some libels  
 “ were writ, treating the whole as an imposture. The use  
 “ the queen made of this, was, to say, that since she saw  
 “ some were suspecting her capable of so black a contrivance,  
 “ she scorned to satisfy those who could entertain such thoughts  
 “ of her. How just soever this might be, with relation to  
 “ the libellers, yet certainly if she was truly with child, she  
 “ owed



“ owed it to the king and herself, to the king’s daughters, James II.  
 “ but most of all to the infant she carried in her belly, to give 1688.  
 “ such reasonable satisfaction, as might put an end to jea-  
 “ lously. This was in her power to do every day: and her  
 “ not doing it, gave just grounds of suspicion.

“ Things went thus on till Monday in Easter week. On  
 “ that day the king went to Rochester, to see some of the  
 “ naval preparations; but was soon sent for by the queen,  
 “ who apprehended she was in danger of miscarrying. Dr.  
 “ Scarborough was come to Knightsbridge to see bishop  
 “ Ward, my predecessor, who had been his ancient friend,  
 “ and was then his patient: but the queen’s coach was sent  
 “ to call him in all haste, since she was near miscarrying.  
 “ Dr. Windebank, who knew nothing of this matter, staid  
 “ long that morning upon an appointment for Dr. Walgrave,  
 “ another of the queen’s physicians, who, the next time he  
 “ saw him, excused himself; for the queen, he said, was  
 “ then under the most apparent signs of miscarrying. Of  
 “ this the doctor made oath; and it is yet extant.

“ On the same day, the countess of Clarendon, being to  
 “ go out of town for a few days, came to see the queen be-  
 “ fore she went, knowing nothing of what had happened to  
 “ her. And she, being a lady of the bed-chamber to the  
 “ queen dowager, did, according to the rule of the court,  
 “ go into the queen’s bed-chamber without asking admit-  
 “ tance. She saw the queen a bed, bemoaning herself in a  
 “ most doleful manner, saying often, ‘ Undone, undone:’  
 “ and one that belonged to her carried somewhat out of the  
 “ bed, which she believed was linen taken from the queen.  
 “ She was, upon this, in some confusion: and the countess  
 “ of Powis coming in, went to her, and said with some  
 “ sharpness, What do you do here? and carried her to the  
 “ door. Before she had got out of the court, one of the  
 “ bed-chamber women followed her, and charged her not to  
 “ speak of any thing she had seen that day. This matter,  
 “ whatever was in it, was hushed up: and the queen held  
 “ on her course.

“ The princess had miscarried in the spring. So, as soon  
 “ as she had recovered her strength, the king pressed her to  
 “ go to the Bath, since that had so good an effect on the  
 “ queen. Some of her physicians, and all her other friends,  
 “ were against her going. Lower, one of her physicians,  
 “ told me, he was against it: he thought she was not strong  
 “ enough for the Bath, though the king pressed it with an  
 “ unusual vehemence. Millington, another physician, told

James II. 1688. “ the earl of Shrewsbury, from whom I had it, that he was  
 “ pressed to go to the princess, and advise her to go to the  
 “ Bath. The person that spoke to him told him, the king  
 “ was much set on it; and that he expected it of him,  
 “ that he would persuade her to it. Millington answered,  
 “ He would not advise a patient according to direction, but  
 “ according to his own reason: so he would not go. Scar-  
 “ borough and Witherby took it upon them to advise it: so  
 “ she went thither in the end of May.

“ As soon as she was gone, those about the queen did all  
 “ of the sudden change her reckoning, and began it from the  
 “ king's being with her at Bath. This came on so quick,  
 “ that though the queen had set the fourteenth of June for  
 “ her going to Windsor, where she intended to lie-in, and all  
 “ the preparations for the birth and for the children were or-  
 “ dered to be made ready by the end of June, yet now a re-  
 “ solution was taken for the queen's lying-in at St. James's,  
 “ and directions were given to have all things quickly ready.  
 “ The Bath water either did not agree with the princess: or  
 “ the advices of her friends were so pressing, who thought her  
 “ absence from the court at that time of such consequence,  
 “ that in compliance with them she gave it out it did not,  
 “ and that therefore she would return in a few days.

“ The day after the court had this notice, the queen said  
 “ she would go to St. James's, and look for the good hour.  
 “ She was often told, that it was impossible upon so short a  
 “ warning to have things ready. But she was so positive,  
 “ that she said, she would lie there that night, though she  
 “ should lie upon the boards. And at night, though the  
 “ shorter and quicker way was to go from Whitehall to  
 “ St. James's through the Park, and she always went that  
 “ way, yet now, by a sort of affectation, she would be car-  
 “ ried thither by Charing-Cross through the Pall-Mall. And  
 “ it was given out by all her train, that she was going to be  
 “ delivered. Some said it would be next morning: and the  
 “ priests said very confidently, that it would be a boy.

“ The next morning about nine o'clock, she sent word to  
 “ the king, that she was in labour. The queen dowager  
 “ was next sent to. But no ladies were sent for: So that no  
 “ women were in the room, but two dressers, and one under-  
 “ dresser, and the midwife. The earl of Arran sent notice  
 “ to the countess of Sunderland; so she came. The lady  
 “ Bellasis came also in time. The Protestant ladies that be-  
 “ longed to the court were all gone to church, before the  
 “ news was let go abroad: for it happened on Trinity-Sunday,  
 “ it being that year on the 10th of June. The king brought  
 “ over



“ over with him from Whitehall a great many peers and James II.  
 “ privy-counsellors. And of these, eighteen were let into 1688.  
 “ the bed-chamber; but they stood at the farthest end of the  
 “ room. The ladies stood within the alcove. The curtains  
 “ of the bed were drawn close, and none came within them  
 “ but the midwife, and an under-dresser. The queen lay all  
 “ the while a-bed: and in order to the warming one side of  
 “ it, a warming-pan was brought, but it was not opened,  
 “ that it might be seen that there was fire and nothing else in  
 “ it. So here was matter for suspicion, with which all peo-  
 “ ple were filled.

“ A little before ten the queen cried out as in a strong  
 “ pain; and immediately after the midwife said aloud, she was  
 “ happily brought to bed. When the lords all cried out, of  
 “ what? the midwife answered; the queen must not be sur-  
 “ prized; only she gave a sign to the countess of Sunderland,  
 “ who upon that touched her forehead, by which, it being  
 “ the sign before agreed on, the king said he knew it was a  
 “ boy. No cries were heard from the child; nor was it  
 “ shewed to those in the room. It was pretended more air  
 “ was necessary. The under-dresser went out of the room  
 “ with the child, or somewhat else in her arms, to a dressing-  
 “ room; to which there was a door near the queen's bed;  
 “ but there was another entry to it from other apartments.  
 “ The king continued with the lords in the bed-chamber for  
 “ some minutes, which was either a sign of much phlegm  
 “ upon such an occasion; for it was not known whether the  
 “ child was alive or dead: or it looked like giving time for  
 “ some management. After a little while they went all into  
 “ the dressing-room, and then the news was published. In  
 “ the mean while, no body was called to lay their hands on  
 “ the queen's belly, in order to a full satisfaction. When  
 “ the princess came to town, three days after, she had as little  
 “ satisfaction given her. Chamberlain the man-midwife,  
 “ who was always ordered to attend her labour before, and  
 “ who brought the plaisters for putting back the milk, won-  
 “ dered that he had not been sent to. He went according to  
 “ custom with the plaisters: but he was told they had no oc-  
 “ casion for him. He fancied that some other person was put  
 “ in his place; but he could not find that any had it. All  
 “ that concerned the milk, or the queen's purgations, was  
 “ managed still in the dark. This made all people inclined  
 “ more and more to believe, there was a base imposture now  
 “ put on the nation. That still increased. That night  
 “ one Hemings, a very worthy man, an apothecary by his  
 “ trade, who lived in St. Martin's Lane, the very next door

James II. 1688. " to a family of an eminent Papist, (Brown, brother to the  
 " viscount Montacute, lived there) the wall between his  
 " parlour and theirs being so thin, that he could easily hear  
 " any thing that was said with a louder voice; he (Hemings)  
 " was reading in his parlour late at night, when he heard one  
 " coming into the neighbouring parlour, and say with a dole-  
 " ful voice, the prince of Wales is dead: upon which a  
 " great many that lived in the house came down stairs very  
 " quick: upon this confusion he could not hear any thing  
 " more; but it was plain, they were in a great consternation.  
 " He went with the news next morning to the bishops in the  
 " Tower. The countess of Clarendon came thither soon  
 " after, and told them, she had been at the young prince's  
 " door, but was denied access: she was amazed at it; and  
 " asked if they knew her: they said they did, but that the  
 " queen had ordered, that no person whatsoever should be  
 " suffered to come in to him. This gave credit to Hemings's  
 " story, and looked as if all was ordered to be kept shut up  
 " close, till another child was found. One, that saw the  
 " child two days after, said to me, that he looked strong,  
 " and not like a child so newly born. Windebank met Wal-  
 " grave the day after his birth, and remembered him of what  
 " he had told him eight weeks before. He acknowledged  
 " what he had said, but added, that God wrought miracles:  
 " to which no reply could or durst be made by the other:  
 " it needed none. So healthy a child being so little like any  
 " of those the queen had borne, it was given out, that he had  
 " fits, and could not live. But those who saw him every  
 " day observed no such thing. On the contrary, the child  
 " was in a very prosperous state. None of those fits ever  
 " happened, when the princess was at court; for she could  
 " not be denied admittance, though all others were. So this  
 " was believed to be given out to make the matter more cre-  
 " dible. It is true, some weeks after that, the court being  
 " gone to Windsor, and the child sent to Richmond, he fell  
 " into such fits, that four physicians were sent for. They all  
 " looked on him as a dying child. The king and queen were  
 " sent for. The physicians went to a dinner prepared for them;  
 " and were often wondering that they were not called for.  
 " They took it for granted, that the child was dead. But,  
 " when they went in after dinner to look on him, they saw a  
 " sound healthy child, that seemed to have had no sort of  
 " illness on him. It was said, that the child was strangely  
 " revived of a sudden. Some of the physicians told Lloyd,  
 " bishop of St. Asaph, that it was not possible for them to  
 " think



" think it was the same child. They looked on one another, James II.  
" but durst not speak what they thought. 1688.

" Thus I have related such particulars as I could gather  
" of this birth: to which some more shall be added, when I  
" give an account of the proof that the king brought after-  
" wards to put this matter out of doubt; but by which it be-  
" came indeed more doubtful than ever. I took most of  
" these from the informations that were sent over to the prince  
" and princess of Orange, as I had many from the vouchers  
" themselves. I do not mix with these, the various reports  
" that were, both then and afterwards, spread of this matter,  
" of which bishop Lloyd has a great collection, most of them  
" well attested. What truth soever may be in these, this is  
" certain, that the method in which this matter was con-  
" ducted from first to last was very unaccountable. If an  
" imposture had been intended, it could not have been other-  
" wise managed. The pretended excuse that the queen  
" made, that she owed no satisfaction to those who could  
" suspect her capable of such base forgery, was the only ex-  
" cuse that she could have made, if it had been really what it  
" was commonly said to be. She seemed to be soon reco-  
" vered, and was so little altered by her labour, either in her  
" looks or voice, that this helped not a little to increase jea-  
" lousies. The rejoicings over England upon this birth, were  
" very cold and forced. Bonfires were made in some places,  
" and a set of congratulatory addresses went round the nation.  
" None durst oppose them. But all was formal, and only to  
" make a show."

After having related what has been said by Echard, and the bishop of Salisbury, on the birth of the prince of Wales, I shall make some remarks on this subject.

I. If the accounts of these two famous writers be carefully examined, it will doubtless be surprising, to find a sort of contradiction between them. For the suspicions mentioned by Echard are, that the queen, though she pretended to be, yet was not with child. Nay, the bishop of Salisbury seems at first to support this suspicion, by speaking of her " great and frequent distempers;" of her having " for several years ceased bearing;" of her having " buried all her children soon after they were born;" of her refusing to give satisfaction to the princess of Denmark, and the Protestant ladies of the court. Nevertheless, he says positively afterwards, that she was really with child the 6th of October (a), and

The au-  
thor's re-  
flections  
upon this  
matter.

(a) He only says, " it went current, that the queen believed herself to be with child on October 6." p. 749.

**James II.** that in Easter week she had a miscarriage, that is, six months 1688. after conception. If this be true, it very plainly follows, that all the suspicions entertained of the queen from the beginning of January (the time of her declared pregnancy) to Easter week, ought to vanish, though she had been less careful of giving satisfaction to the public, than she was. Assuredly this negligence is not capable to invalidate the reality of her pregnancy, if she had a miscarriage in the beginning of her seventh month. What the prince of Denmark told Dr. Burnet of his princess's fruitless endeavours to see the queen rise, cannot serve to confirm the suspicion of an imposture, unless it appear, that this was from the Monday before Easter, to the 10th of June (b). But the bishop fixes no time. It might even be inferred from the order observed by the bishop in his story, that what he says concerning the princess of Denmark, passed between January and Easter week. But, supposing the reality of the pregnancy, it is clear, that the queen might have given satisfaction to the princess, and the Protestant court-ladies. And it cannot be denied, that she committed a great error in refusing to do it. But it is certain, this refusal proves nothing, if it be true that she was with child, at least till Easter week. The times are therefore carefully to be distinguished. Her obstinacy to give no satisfaction from January, when she declared herself with child, to Easter week, can be ascribed only to an unseasonable and preposterous haughtiness. But it may be suspected, that from Easter week to the 10th of June, she still pretended to be with child, when she was no longer so, and that she produced another at the time of her pretended delivery. Thus all the suspicions concerning the reality of her pregnancy, are to be included within the space of two months. For in the year 1688, Easter-day was the 15th of April; the queen had a miscarriage the Monday before Easter, on the 9th of April; and she was delivered the 10th of June. But no time is fixed for this refusal of satisfaction to the public, though, the queen being six months gone when she miscarried, she might, for some time, have caused the motion of the child to be perceived.

2. In the bishop of Salisbury's account, are four several children. The first, which really belonged to the queen, was an untimely birth of six months. The second was sup-

(b) It is here proper to take notice of this passage in bishop Burnet, "That the princess went as far in desiring to be satisfied by feeling

"the motion, after the queen said she was quick, as she could go without breaking with her." Ibid.



posed at the time of her pretended delivery, and died the same day. The third was brought in the room of the dead child, and died also some weeks after at Richmond. The fourth, substituted in the room of the third, must be the present Pretender. It is surprizing, that Echard, who probably writ the history of this reign, but twenty or twenty-five years after the time I am speaking of, should have heard nothing of these two last impostures, but confines himself to one, in what he relates concerning the public suspicions.

3. Fuller, who pretended to give an exact account of the cheats, agrees not with the bishop of Salisbury. But I shall not insist on his testimony, because his pretended discovery has been little regarded.

4. It remains therefore to examine what the bishop of Salisbury says, to make us suspect the supposition of the three last children. For, the first, which was but a miscarriage, according to this author, was really the queen's. To this end, we are to distinguish three different times, namely, before, at, and after her delivery. I shall make some observations upon the most remarkable circumstances of each of these times.

1. The king's pressing the princess to go to the Bath, agrees very well with the design of supposing an heir. For the presence of the princess at the queen's pretended delivery, must have been perplexing, on account of her interest to detect the imposture. Had the king contented himself with barely advising her to go to Bath, nothing could have been inferred from it, but that he thought the Bath good for her health. But his pressing it with an unusual vehemence, and causing a physician to be told, that he expected it of him that he would persuade her to it, seem to discover some secret design, especially, when it is considered, that an imposture was already suspected. This suspicion is farther confirmed by the change of the queen's reckoning, and by her delivery two days after it was known that the princess was upon the point of returning from the Bath. But there must not be given to this cause of suspicion, more strength than it really has. For as it is very possible for the king to have believed, that the Bath would be of service to the princess his daughter, the suspicion of his acting from another motive, is founded only upon the supposition of an imposture. If this was well proved, the king's proceeding would become a sort of a new proof. But as it is not, it seems that the suspicion ought not to be supported by the supposition of the fact in question.

James II.  
1688.

2. If it is true, that the queen did not believe herself with child till the 6th of October, and that she afterwards suddenly changed her reckoning, there is reason to suspect some mystery in it. And indeed, by this new reckoning she was to be brought to bed during the absence of the princess of Denmark, whereas by the first she could not be delivered till after her return. To this may be added, that if it is true, that about the end of September she was stopped at the Bath, one week longer than she intended, by an accident to which the sex is subject, she could not be with child from the 10th of September, nor consequently brought to bed the 10th of June. To this it is answered, that these misreckonings are common to the whole sex. But this reason cannot take place here, because it did not appear that the queen thought herself mistaken.

3. It cannot be denied, that there is something extraordinary in the queen's sudden resolution, of going to lye-in at St. James's, when things were not ready. Hitherto no probable reason has been given of this sudden change, to show that she could lye-in more commodiously at St. James's than at Whitehall, nor why she at first chose Windsor for the place, and fixed the time to the beginning of July.

4. I own I see nothing in the queen's affectation of being carried to St. James's by Charing-Cross, through the Pall-Mall, to confirm the suspicion of an imposture.

5. I never heard, that the presence of the archbishop of Canterbury is absolutely necessary at the delivery of the queens of England, especially at that of a Popish queen, who could have no great need of his assistance.

As for the time of the queen's delivery, there are many things to be examined.

1. The queen, after having declared her intention to lye-in at St. James's, without any apparent necessity, was bent to go thither on the Saturday, though nothing was ready. This is a sign, she thought it would be too late if she deferred going till the next day. It is therefore clear, that she expected the moment of her delivery every hour, and yet when she began to find herself ill, "No women were in the room but two dressers, one under-dresser, and the midwife." Not one foreign lady was in the palace. It cannot be denied, that this was very extraordinary for a queen, since it was so easy to have other ladies at hand to assist her, and the more, as she hourly expected the moment of her delivery. It is no less extraordinary, that none of the court-ladies were called besides the countess of Sunderland, by the particular care of the earl



earl of Arran; and the queen-dowager, who lodged in Somerset-house, a great way from St. James's. All this seems to discover, it was not desired that many ladies should be present at the labour. To this it is answered, that the queen was surprized, as women frequently are, and that the Protestant ladies were at church. But some take occasion from hence to confirm their suspicion. They suppose, the queen would not have gone with so much precipitation on Saturday night, to St. James's, if she had not known she should be delivered the next morning, while the Protestant ladies were employed at their devotions. But after all, this is only a suspicion. For, who can be sure, that the queen acted by the motive ascribed to her? All that can be said, is, that the point in question being a child who, if a boy, was to take place of a princess, presumptive heir of the king her father, the king and queen ought to have put his birth out of all doubt. Instead of this, they confirmed, by a mysterious conduct, suspicions which were already but too far spread, and of which they could not be ignorant. The empress Constantia, wife of Henry VI, proving with child at the age of fifty-two years, chose a place the most public for her labour, and thereby removed all suspicion of the birth of her child. On the contrary, the queen of king James II, for having neglected all precautions, has left upon her son, real or pretended, a blot which has not yet been effaced.

2. The king's being at the farther end of the room with eighteen peers and privy-counsellors, is a circumstance which proves nothing at all. It is well known, that on these occasions men approach not the bed, to be eye-witnesses of what passes there. All they can do, is to be attentive to the cries of the mother, or the infant. Besides, the king himself was not less suspected than the queen.

3. As to the warming-pan brought into the queen's chamber, and which is supposed to have in it a new-born child, this is only a conjecture founded upon the seeming uselessness of a warming-pan on the 10th of June, which proved an excessive hot day. To this it is answered, that a labour is often attended with a quaking and trembling like an ague, which begins with a cold fit. This is what I know nothing of. It is also pretended, that it was impossible to put a new-born child, in the narrow compass of a warming-pan, without stifling it.

Echard,  
III. p. 863

Idem.

4. It is very extraordinary, that the queen was not a full hour in labour; for the king was sent for at nine of the clock, and before ten the queen was delivered. She cried out

James II. out but once, in the moment of her delivery. When the  
 1688. mind is filled with suspicions, such circumstances help to  
 confirm them. Those who are not in the same disposition,  
 find nothing extraordinary in this; because the queen had  
 ever had easy and quick labours.

5. It is commonly true, that children, the moment they are  
 born and exposed to the air, are heard to cry. But I know  
 not whether this can be considered as infallible. However,  
 the queen having neglected to give undoubted proofs of her  
 pregnancy, every little uncommon circumstance was capable  
 to confirm the suspicion of an imposture.

6. As to the stress that is laid upon the curtains of the  
 bed being close drawn, this cannot seem strange, since there  
 were eighteen lords in the room.

7. The circumstance of the child's being not shown, can  
 cause no suspicion, but on supposition of the suspicion itself,  
 which ought to have been removed, by showing the child  
 as it came from the womb. For, otherwise, it is not usually  
 done, till the midwife has taken due care of the child. But  
 if this is urged to prove, that a child was not taken out of the  
 queen's bed, the suspicion of the warming-pan must neces-  
 sarily be suppressed, for had a child been put in the pan, it  
 could also be taken out of it.

8. What is said of the 'king's' continuing with the lords  
 'some minutes in the bed-chamber,' and that 'it looked like  
 'giving time for some management,' is a gloss which de-  
 serves little or no notice.

9. Those who believe the child in question not born of  
 the queen, would have had her take all the precautions which  
 they themselves imagine, to destroy all sort of doubt, and the  
 omission of one of these precautions is, with them, sufficient  
 to confirm their suspicions.

10. If no satisfaction was given to the princess of Den-  
 mark after her return from Bath, it may be alledged, that  
 she discovered no jealousy concerning the birth of the prince  
 of Wales, and as she appeared convinced of the truth, there  
 was no necessity of giving her proofs.

11. The refusal of Chamberlain's plaisters would be very  
 apt to cause a suspicion, if it was impossible for the queen's  
 breasts not to want them. But how many labours are there  
 which have no need of remedies for putting back the milk?  
 However, the bishop of Salisbury obviates this answer, by  
 saying, that in her former labours, the queen had always  
 great plenty of milk.

T. I. p. 785.



12. What is said of the queen's recovering so soon after her delivery, proves nothing. Some mothers have so easy labours, that in a few days one can hardly perceive any alteration in them. Besides, it is too general an expression to say, 'the queen seemed to be soon recovered.' The precise time should have been marked, that it might be judged, whether there was any thing extraordinary in it. James II.  
1688.

However, all these reasons of suspicions laid together, make an impression upon many men, which each in particular would not be able to do. We must always recur to this point, that the king and queen, knowing that they were suspected of an imposture, ought to have taken just measures to remove the suspicion, and not having done it, it is not very strange it should continue to this day.

As to what passed after the delivery, I mean the supposition of two children, when the first was dead, the bishop of Salisbury's account rests only upon the credit of some persons whom he has given for vouchers, and of others not named by him. There are besides several particulars, in proof of which he produces no testimony.

He supposes, that the child of which it was pretended the queen was delivered, died the same day. This supposition is grounded upon what Hemings heard through the wall of his parlour, and upon the denial of access at the young prince's door to the countess of Clarendon. All this may be of some weight, when a bare suspicion only is meant to be established. But if it is produced as a proof, the insufficiency of it is easily seen.

The death of the second child at Richmond stands only upon the report of four physicians, who were sent for to visit him. The bishop does not make the physicians positively say that the child died, but only that, "They all looked on him as a dying child;" and as they were not called for after dinner, "they took it for granted that the child was dead." But this consequence is not absolutely necessary; for possibly they were not called, because the child grew better. But, says the bishop, "When they went in after dinner to look on the child, they saw a sound healthy child, that seemed to have had no illness on him." They inferred from this, that he was not the same child, and the bishop concludes that the first was dead, and another put in his room. What is particular in this fact, is, that these four physicians doubted this was the same child, only because the first had been sick, and this was sound and healthy; as if all children at such an age were so like one another, that no feature

James II. feature could distinguish them. And yet, these physicians 1688. thought it was not the same child only by the difference between a state of health and sickness. This is very surprizing, since naturally the faces of the two children must have been so different, as not to need other marks (c).

In short, the bishop of Salisbury's whole account of these three impostures, rests either upon hearsay, or what he read in the informations sent to the prince and princess of Orange; for he was then at the Hague. The senders of these informations were, probably, no friends of king James. It is therefore very possible, not to say likely, that they have aggravated their reports, and collected every circumstance, true or false, which was apt to persuade the prince and princess, that the prince of Wales was supposititious. As for the bishop of Salisbury, I am persuaded, he has related nothing but what he either heard, read, or believed to be true. But who can say he was not deceived by prejudiced persons, who looked upon their suspicions as so many convincing proofs? I am aware, that all the English have not the same opinion of Dr. Burnet as I have. Volumes of remarks upon his history, in which he is violently abused, demonstrate, that the Jacobites consider him as the sworn enemy of James II, and as deserving no credit. But as, for very good reasons, they have not thought proper to make remarks upon what he says of three supposititious children, it is not my business to guess what they could have said. I presume therefore he has invented nothing, without pretending, however, to warrant what he says upon the testimony of others.

I have enlarged upon the birth of the prince of Wales, because there seemed to me to be great confusion, as well in the books, as in the discourses on this subject. My intent

(c) Colonel Sands, who died in 1728, being in 1688 gentleman-waiter to the princess Anne, was sent by her from Tunbridge (where she then was) to court, to enquire after her brother's health; going up immediately to the king without ceremony or interruption, as is usual in such cases, he came into the room where the prince lay: he saw there a pale, long-visaged child, with red spots in his face, and other marks of weakness. This struck him so, that he took very particular notice of it; but presently after the ladies in the room came and turned him

out, saying, the prince was a-sleep. At his going out he met the king, who asked him with a disturbed countenance, whether he had seen the prince? Sands, fearing he had done something amiss, denied it; upon which the king's countenance cleared up. Some time after he was called to look at the prince, but saw a child of very different looks and complexion from that which he found before. All these particulars he committed to writing, and carried them to the princess. Continuation of Baker's Chro. Edit. 1730, p. 752.



was to help the reader, to determine for or against, or to <sup>James II.</sup> suspend his judgment till the thing is more fully cleared. As <sup>1688.</sup> the principal design of history is to establish facts that are certain, to destroy those that are false, and to inform the readers of the grounds of doubting with regard to such as are dubious, I imagined, that in an affair so important as this, which has made so much noise, and will, doubtless, yet long be talked of, the reader would be glad to know what to rely on. Thus much is certain, that most Protestants believed the prince of Wales supposititious, chiefly because it would have been very disadvantageous to them, that James II should have had a Popish successor. The Papists, on the contrary, questioned not this prince's birth, because nothing could be more serviceable to their religion. I am persuaded, there were few, either Papists or Protestants, but what were determined on this point, by their prejudices. But things having taken an unexpected turn, the truth or falsity of this prince's birth have hitherto produced none of the effects which were hoped or feared (d).

The assurance of a Popish successor, made the king hope he should more easily accomplish his designs. But he wished, above all things, for the concurrence of a parliament. It was with this view, that closettings were once more put in practice. He closetted such as he intended to gain. Promises and menaces were employed, and those who refused to serve the king "in his own way," as the word was, might assure themselves of his heaviest displeasure.

However, he neglected not more effectual means to force his subjects to compliance. He ordered some entire regiments out of Ireland, and filled many vacancies in his English regiments, with Irish and Popish officers. This gave so great a disgust to the whole army, that lampoons and ballads were vented upon the Irish, who were mortally hated by the English, especially since the massacre in 1641.

Mean while, that the king's designs in augmenting his forces might not be doubted, an address, supposed to be drawn by a Jesuit, was procured from the city of Carlisle, particularly, "To thank his majesty for his royal army, which really was both the honour and safety of the nation; let the Teckelites think and say what they would." And upon this occasion the addressers assured his majesty, "That when, in his great wisdom, he should think fit to

Closetting renewed.  
Echard, III. p. 864.  
Welwood, p. 188.

The king sends for forces out of Ireland.  
Ibid.  
Burnet.

The Carlisle address.  
Gazettes, No. 2348.  
Echard, III. p. 865.

(d) See State-Tracts, in king William's reign. Tom. I. p. 12—30.

James II. " call a parliament, they would chuse such members as  
 1688. " would certainly concur with his majesty; in taking off  
 " the penal laws and tests, and not hazard the election  
 " of any person, who had any ways declared in favour of  
 " those cannibal laws. Surely, said they, these men that  
 " oppose your majesty in so gracious and glorious a work,  
 " do not consider what a sovereign prince, by his royal  
 " power, may do. A work which heaven smiles upon,  
 " and will reward with no less a blessing, we hope, than a  
 " prince of Wales." —

Trial of the  
 seven bishops  
 Burnet.  
 Kennet.  
 State-trials.  
 IV. p. 300.

During the public rejoicings for the birth of the prince of Wales, the archbishop of Canterbury, and the other six bishops, prisoners in the Tower, were brought to their trial at the King's-Bench bar the 15th of June. But upon their motion for a delay, the trial was put off to the 29th of the same month, and in the mean time they were set at liberty upon their own recognizance. The 29th of June, Westminster-Hall was crowded with great numbers of lords, gentlemen, and others, to be spectators of this famous trial. The king's counsel pleaded, That the petition presented by the bishops was a real and seditious libel, tending to diminish the king's prerogative, and excite sedition amongst the people. The counsel for the bishops, on the other side, retorted the arguments of their adversaries with great force and freedom; proving, that the king having no power to dispense with penal laws, a petition humbly presented to remonstrate to him that he had no such power, ought not to be esteemed a libel: that it was injurious to the bishops, to accuse them of having published a petition, which they had respectfully presented to the king in private and alone: that the occasion of presenting it was not sought by them, but pressed upon them: nor could it be called a libel, because the intent was innocent, and they kept within the bounds set by act of parliament. After long pleadings on both sides, the judges, in giving directions to the jury, were not unanimous. There were four, of whom Wright the chief-justice, and Holloway, were the king's creatures. Powel was reckoned a man of perfect integrity, and Allybone was a Papist. Wright gave his opinion, That the petition presented by the the bishops was a libel. Holloway said, That if the jury were satisfied that the petition was presented with no ill intention, but only to show the reasons of the petitioners disobedience to the king's command, he could not think it to be a libel. Powel maintained, That the petition could not be a libel, because it was founded upon the king's incapacity  
 to



to dispense with laws, which was very true. Allybone asserted, That the crime of the bishops was next door to treason (e). James II. 1688.

The jury withdrawing, sat up all night; whether they could not agree, or to render their verdict more solemn. The next morning the court being assembled, and the Hall filled with crowds of people, the jury pronounced the bishops Not Guilty. Immediately shouts of joy were heard through the crowd, and the loudest acclamations resounded through the cities of Westminster and London. For several hours nothing was heard but repeated shouts of both cities, transported with the news of the bishops acquittal. Nor was this all. For the king being gone that morning to the army on Hounslow-Heath, and dining in the earl of Feverham's tent, the news flew to the camp, where the whole army shouted so loud, that it startled the king, and his whole company. The earl of Feverham being sent to know what was the matter, immediately returned, and told the king, "It was nothing but the shouts of the soldiers upon the news of the bishops being acquitted." "Do you call that nothing?" said the king, "but so much the worse for them." Notwithstanding the resentment expressed by the king, and his severe prohibitions against all riotous assemblies, the whole city was that night illuminated, and numberless bonfires proclaimed the general joy. This was followed by almost all the great towns in the kingdom, and at Norwich particularly the joy was excessive. This was a sensible mortification to the king. He at first threatened to deliver the bishops to the ecclesiastical commissioners, and to show his indignation, he dismissed Sir Richard Holloway and Sir John Powell, and filled their places with others (f).

The king perceiving the people's disposition was not favourable to him, he resolved at last to come to open force.

(e) Allybone's opinion is not here truly represented. What he affirmed was, that neither the bishops, nor any other men, had power to meddle with matter relating to the government. And he confirmed his assertion by an instance in James I's time, when it was declared to be high misdemeanor, and next to treason, to petition the king to put the penal laws in execution. In which it seems he was mistaken; for the petition referred to, was a petition against the penal laws. See State-Trials, Tom. IV. p. 391.

(f) Sir Robert Baldock, one of the king's counsel in this trial, was made judge in the room of the latter; and Sir Thomas Powell of the former. Sir Christopher Milton, one of the justices of the Common-Pleas, having about this time his writ of ease, was succeeded by Sir Thomas Jenner; in whose room, and in Sir Thomas Powell's, serjeant Ingleby and Serjeant Rotherham were made barons of the Exchequer. Kennet, p. 516.

who are acquitted.

Great rejoicings in the city. Kennet, p. 515. Echard, III. p. 844. In the army,

and through the whole kingdom,

The king tries the temper of his army. Kennet, p. 516. Echard, III. p. 874.

But

**James II.** But as he could only make use of his army, he was willing  
**1688.** first to try how far he might depend upon their obedience.

For this purpose, he thought fit to communicate his design to every regiment singly, not doubting, that if two or three submitted, the rest would follow their example. Accordingly, the major of the lord Litchfield's regiment was ordered to tell the officers and soldiers, that those who were unwilling to contribute to the repeal of the test and penal laws, should lay down their arms. But it was with the utmost astonishment that he saw the whole regiment, two captains and a few Popish soldiers excepted, instantly lay down their arms. He remained for some time speechless, but at last recovering his surprize, he commanded the soldiers to take up their arms again, and sullenly told them, "That for the future he would not do them the honour to ask their advice."

Finds it not  
 at all favour-  
 able to his  
 designs.

Fills vacan-  
 cies in his  
 armies with  
 Popish offi-  
 cers and  
 soldiers.

but is op-  
 posed.

Hist. of the  
 Desertion in  
 State-Tracts

T. I. p. 42.

Kennet.

P. 516.

Echard.

III. p. 874.

Sept. 10.

The fleet in  
 the same  
 temper with  
 the army.

Ibid.

Burnet,

P. 755.

It was now easy to foresee, that with a Protestant army he should never be able to introduce Popery. Wherefore he resolved to cashier many Protestant officers and soldiers, and to put Papists in their room. Accordingly he began with some regiments; but it gave a disgust to the whole army. Shortly after, resolving to put thirty Irish soldiers into the duke of Berwick's regiment, lieutenant-colonel Beaumont, and other officers, remonstrated to the duke, "That neither those gentlemen nor himself thought it consistent with their honours, to have foreigners imposed upon them,—and therefore humbly petitioned, that they might have leave to fill up their companies with such men of their own nation, as they should judge most suitable to the king's service; or otherwise, that they might be permitted, with all imaginable duty and respect, to lay down their commissions." An account of this being transmitted to the king, he immediately ordered the lieutenant-colonel, and five captains, to be taken into custody, and tried by a court-martial as mutineers. It was at first believed, that his intention was to cause them to be condemned to die, but some news from abroad altered the sentence, and they were only cashiered. The fleet was no better disposed than the army to assist the king in his designs. This appeared, in that vice-admiral Strickland ordering masts to be laid on board his ship, there arose such a mutiny and disorder amongst the sailors, that the officers could hardly save the priest from being thrown over-board.

The king's situation was such, that it seemed he could neither advance, nor recede. His zeal for his religion, his prin-



principles of government, his temper naturally obstinate, James II. his condescension to the queen, priests, and Jesuits, who incessantly surrounded him, allowed him not time to leave his work unfinished. Besides, he must have changed his whole system, as well as his whole council, and nothing is more rare than to see a prince proceed in that manner, before he is forced to it. But, on the other hand, he could easily perceive, how far he still was from his end, by the disposition of his subjects, his fleet, and his army. He hoped, however, to surmount all obstacles, because, though one part of his people showed a reluctance to submit to his will, another part seemed disposed to receive the yoke with submission.

There were bishops who had caused the declaration for liberty of conscience to be read in their dioceses, as the bishops of Durham, Chester, and Rochester. Nay, the first had suspended thirty of his clergy, for refusing to read it (a). In Cheshire, some curates, rectors, and others, not contented to read the declaration, presented also an address, wherein they tell his majesty,——“ That if the matter of the declaration were not according to their wishes, yet the publishing of it was according to their duty, since it issued out from the express prerogative of his supremacy over them; so that they could not but with trouble of mind hear of the proceedings of the seven bishops, who, tho’ they tenderly promised the Dissenters something, yet refused to do their part about the declaration, lest they should be parties to it, which reason the addressers esteem insufficient. They therefore, in all submission, become earnest, though too mean, intercessors to his majesty, in behalf of the Church of England, that the faults of these and others may not be laid to her charge, in whose communion there were many, and they hoped there would be more, who concurred in promoting the purposes of his mild government: and so conclude with begging leave to make their congratulations for the happy birth of the young prince in his hereditary successive kingdom.”

The king, flattered by such addresses, and imagining that terror would by degrees oblige his subjects to submit to his pleasure, resolved to push his point at all events. But, on the other hand, he had the mortification to hear, that a son of Cartwright, bishop of Chester, who had procured this address, was refused to be admitted to a fellowship of one

Some bishops are disposed to come into the king's measures. Echard, III. p. 876. Address of the Cheshire ministers. Gazettes. No. 2374.

(a) And amongst them one of his own chaplains. Echard, Tom. III. p. 876.

James II. of the colleges at Oxford; and that Gifford, nominated by 1688. him to the see of that city, was likewise denied his doctor's degree.

Order from  
the ecclesi-  
astical com-  
missioners  
concerning  
the reading  
of the decla-  
ration,  
Gazettes,  
No. 2364.  
Kennet,  
p. 515.  
Burnet.  
p. 744.  
flighted.

But the resolution taken by the king and his counsel was not to be shaken by any obstacles. Though the seven bishops had been acquitted of the pretended crime laid to their charge, the new ecclesiastical court did not think itself bound by that precedent. Wherefore, the commissioners, by an order made the 12th of July, "Command all chancellors, archdeacons, commissaries, and officials, to enquire in what churches and chapels his majesty's declaration was read, and to transmit an account thereof upon the 16th day of August next." But the greatest part of those to whom the order was directed, never took any notice of it. The commissioners being met on that day, were not a little puzzled how to proceed. At last, after a long consultation, they were contented to renew their first order, "Requiring all persons having ecclesiastical jurisdiction, to transmit to them, upon the 6th day of December next, an account of the enquiry they are hereby commanded to make in their visitations, together with the names of the parsons, rectors, vicars, and curates, that had either obeyed, or disobeyed his majesty's command." The affairs which happened before the expiration of that term, hindered its being known what the ecclesiastical court intended to do, or whether this order would have been better obeyed than the former.

A second.  
Gazettes,  
No. 2375.  
Kennet,  
Ibid.

The bishop  
of Rochester  
leaves the  
commission-  
ers, and  
sends his  
reasons.  
Echard.  
III. p. 876.  
Burnet,  
p. 744.

Doctor Sprat, bishop of Rochester, one of the bishops of the new ecclesiastical court, now thought it time to withdraw. Wherefore he writ to his colleagues a letter, wherein he told them: "That since their lordships were resolved to proceed against those who had not complied with the king's command in reading his declaration, it was absolutely impossible for him to serve his majesty any longer in that commission." He proceeds farther and says, "That though I myself did submit in that particular, yet I will never be any ways instrumental in punishing those my brethren who did not: for, as I call God to witness, that what I did was merely upon a principle of conscience, so I am fully satisfied, that their forbearance was upon the same principle." This bishop was one of those on whom the court relied, and therefore his defection could not but trouble the king extremely. Several have thought, that the principal motive of this proceeding, was to screen himself in time



time from the approaching storm, of which he had received James II. some intimation. 1688.

After the prince's birth, those who had any concern for their religion or country, saw clearly the danger with which both were threatened. It was evident, that the king no longer pretended to govern by the laws of the land, but according to his will and pleasure. He had sufficiently discovered his intention; so that nothing less than a total subversion of the government in church and state could be expected. If this did not sufficiently authorize the most considerable members of the state to take measures for the prevention of such a design, it is hard to conceive, what difference there can be between a government, like that of England, limited by laws, and an absolute monarchy. And yet it cannot be doubted, that the government of England is different from that of most other states. I am very sensible this point is not without difficulty, and that it is not easy in England to fix the limits of the subjects obedience. Whilst the Church of England preposterously believed, that the king had no design to alter the form of the government, but intended only to enlarge his prerogative, instead of thinking proper to oppose it, she believed it for her advantage, as it might prevent attempts like those which had occasioned so many mischiefs in the reign of Charles I. The Presbyterians, the Independents, the Anabaptists, had carried the principles of the Republicans so far, and drawn such terrible consequences from them, that after the restoration of Charles II, it was thought in some manner necessary to run into the other extreme, by investing the king with a power, which, rightly considered, might have had consequences not less dangerous than the Republican-principles. But herein the sole aim was to curb the Nonconformists by the king's authority, without foreseeing that a time might come, when the king would use the power ascribed to him, against all his subjects in general, and the Church of England in particular. That time being come under James II, the Church of England opened her eyes, though a little too late, and saw that she had been labouring for her own destruction, in maintaining and even openly preaching passive-obedience without any restriction. It was from this doctrine, inculcated so carefully, and so long upon the minds of the English, as essential to the church, that those submissive addresses proceeded, which were daily presented to the king. And indeed, as no bounds had been set to passive-obedience, many people did not conceive that they could, with a safe conscience, refuse

**James II.** an unlimited obedience to the sovereign. But at last, the  
**1688.** danger of the kingdom convinced men of sense, that the royal authority was necessarily to be bounded, otherwise the church and state were going to be ruined.

The Church of England departs from her former principles: and takes measures to oppose the king.

Such being the situation of affairs, several Church of England men, both of the clergy and laity, thought it time to take measures for stopping the king's progress, and bounding his power. Though they had themselves carried it very high, they chose rather to retract, than by their obstinacy to throw the church and state into imminent danger, in continuing to maintain a doctrine which could justly be considered as the principal fountain of the kingdom's calamities.

An union projected between the Church of England and the Presbyterians. Echard. III. p. 875.

The first and most necessary precaution taken by them, was to form a strict union between the Church of England and the Nonconformists for their common security. This union was become more easy than ever. The two parties agreed, that their division had been the sole cause of their ruin. This was a strong motive for their union. The Churchmen acknowledged, they had carried passive-obedience too far, and that it had produced ill effects. They shewed a readiness to comply with the scruples of the Presbyterians, in relinquishing the ceremonies which might be considered as indifferent, or at least to leave every man at liberty to practise or not practise them. This was all the Presbyterians could reasonably expect. In short, as the Churchmen appeared touched with the calamities occasioned by their excessive rigour, so they seemed disposed to more condescension, if things were restored to their former state. The Presbyterians, who had hitherto groundlessly accused the Church of England of leaning to Popery, could not forbear acknowledging their error, after the firmness of the seven bishops had discovered the injustice of that accusation. These dispositions being well managed by the prudent and well-meaning men of both parties, produced at last an uniformity of sentiments, with regard to the principal point in question, namely, That it was absolutely necessary to think of means for the preservation of religion and the state, from the impending danger. The leading men on both sides, took great pains to curb the passionate, whose views were very narrow. In a word, without the king's knowledge, the Whigs and Tories were reconciled, and resolved to labour jointly for the preservation of their country. But unfortunately this union ended with the danger. However, it may be affirmed, that this reconciliation of the two parties was the



the most fatal blow that could be given to the king's affairs, James II. since his greatest strength lay in their division. Father Orleans calls this union a league against the king. It would be needless to dispute about this term. The question is only to know, whether this union, this league, or whatever else it may be called, was contrary to law, to conscience, or to the duty which subjects owe to their sovereign. But to decide this question, the government of England must be distinguished from that of other states, and on pretence of the name of king, common to so many princes, the rights of one sovereign not be confounded with those of another, in order to apply to a king of England whatever is asserted of sovereignty in general. This was an artifice frequent with James I. The question therefore is to know, whether, in supposing the constitution of England such as it appears in this history, James II had violated it in the most essential parts; whether he had now changed or considerably altered it; whether there was ground to fear an entire subversion; and whether the English were obliged to suffer it without opposition. Of this the readers may judge, from what they have hitherto seen. But in supposing even that James II had changed, or designed to change the constitution, a strong objection lay against those, who believed it proper to oppose the entire execution of his designs; namely, the frequent declarations of the parliament and Church of England, since the restoration, that an unlimited obedience was due to the king. This objection was so strongly impressed on the minds of some Churchmen, that they could not resolve to oppose the king's designs, because they looked on such opposition as an act of rebellion. Nay, many persist in this opinion even to this day, and, with the Papists, form the party of the Jacobites. Happily for England, most of the clergy and laity of the established church were of a contrary opinion, and laboured effectually for the preservation of religion and the government in conjunction with the Whigs, who made no scruple of uniting with them in the same design.

The union between the Whigs and Tories being effected, several persons of distinction, as well amongst the clergy as the laity, began to form a scheme for the execution of the great design to preserve the church and state. They saw no expedient more proper, than to put the prince of Orange at the head of the party against the king. That prince was so interested in the affair, that it was not doubted he would contribute whatever lay in his power, both to save England, and secure the succession to the princess his wife, lately de-

A resolution taken to call in the prince of Orange. Kennet.

P. 745; &c.

James II. seated of her right by a prince, who generally passed for sup-  
 1688. posititious. These were very powerful motives to actuate the  
 prince of Orange. But there was still another, which was  
 naturally to have a great effect upon him; namely, the ex-  
 treme danger to which Holland would be exposed, in case  
 the king accomplished his design, by reason of the close  
 union between the kings of England and France. It was  
 with this view that several great men timely repaired to the  
 Hague, on divers pretences, to confer with the prince of  
 Orange. The first were, Mr. Sidney (brother to Alger-  
 noon Sidney, beheaded in the last reign) afterwards earl of  
 Rumney, Sir Robert Peyton, Sir Rowland Gwin, Dr.  
 Burnet, and others. It is to be presumed, that assurances  
 were transmitted from them to their friends in England, of  
 the good inclination of the prince to the common cause. In  
 July, one Joseph Flight brought over into England about  
 fourscore letters from persons of quality and credit, and car-  
 ried back answers to the Hague. The affair being thus be-  
 gun, the old lord Wharton pretending a journey into Ger-  
 many, passed thro' the Hague. Colonel Sidney, uncle to  
 the earl of Sunderland, went to the Spaw, on pretence of  
 only drinking the waters. The lord Dunblain, son to the  
 earl of Danby, and commander of an independent frigate,  
 crossed and re-crossed the seas, to carry several dispatches and  
 resolutions. The earl of Shrewsbury mortgaged his estate  
 for forty thousand pounds, and went over to the prince to  
 offer him both his purse and sword. He was quickly fol-  
 lowed by admiral Herbert, his cousin Mr. Herbert, Mr.  
 Russel, the lord Mordaunt, and the earl of Wiltshire. The  
 principal persons with whom they held correspondence in  
 England, were, the earls of Danby, Devonshire, and Dor-  
 set, the lords Lovelace and Delamere, the duke of Norfolk,  
 the marquis of Hallifax, his son the lord Eland, the mar-  
 quis of Winchester, his son the lord Pawlet, the lord Wil-  
 loughby son to the earl of Lindsey, Mr. Lester, Mr. Hamp-  
 den, Mr. Powle, and many others, besides several eminent  
 citizens of London (b).

Several Eng-  
 lish noble-  
 men and gen-  
 tlemen go  
 over to him.  
 Kennet.  
 p. 518.  
 Burnet.  
 p. 762, &c.  
 Echard.  
 III. p. 879.

The English  
 lords apply  
 to the States-  
 General;  
 Echard.  
 III. p. 880.

The prince of Orange being fully determined to head the  
 party, it was, after several consultations, resolved, that the  
 English lords at the Hague should demand assistance of the  
 States, in the name of all England. But to prevent the  
 secret from being divulged, they applied at first only to per-

(b) As also the lord Churchill, after-  
 wards duke of Marlborough, colo-  
 nel Trelawny, and colonel Kirk.  
 Burnet, p. 764.



sons of the greatest credit and influence, who promised to use all their interest, at a proper time, to promote the design. There was no need of many arguments to prevail with the States to assist the distressed English. They were equally concerned in the affair with the English themselves; for the ruin of Holland would doubtless have soon followed the slavery of England. Of this the designs of Lewis XIV, and his union with James II (c), left no room to doubt. All the difficulty lay in making preparations, in concealing the design of them, in raising forces in the room of those which the prince should lead into England, and in securing a timely relief, in case the king of France should attack Holland. But all these things were taken care of, with great address and secrecy. The difference at that time, about the election of an archbishop of Cologne, between prince Clement of Bavaria and the cardinal of Furstemburg, furnished the States with a pretence to assemble an army near Nimeguen. On the other hand, the prince of Orange, by his intrigues, prevailed to have the direction of affairs then on the carpet, committed to the management of three or four members of the States, on pretence of the correspondents the count d'Avaux, the French Ambassador, had in Holland, who might inform him of their resolutions. These commissioners, all in the prince of Orange's confidence, under colour of the Cologne affair, gave orders for incamping an army and preparing a fleet. At last, the prince of Orange, on pretence of providing for a war against France, which seemed to be near, had an interview at Minden in Westphalia, with the electors of Saxony and Brandenburg, the princes of the house of Lunenburg, and the landgrave of Hesse-Cassel, and secured their assistance, in case France should attack Holland or the Low-Countries, while he was engaged in the English expedition. All this was transacted with such secrecy, that the ambassadors of France and England at the Hague could get no certain intelligence. They were forced to recur to conjectures, tho' the first had usually been informed of the resolutions of the States, as soon as they were taken.

When the prince of Orange had secured to the States, in case of need, the assistance of these princes, he concerted his expedition with such prudence and secrecy, that his scheme was not known till after the execution; namely, that the States, under colour of being ready to support the

James II.  
1688.

are favourably heard.

The affair of Cologne made use of to cover the design upon England.  
Burnet.  
p. 757.

Measures of the prince of Orange.

Echard.  
III. p. 881.

His plan,

(c) See State-Tracts, in king William's reign. Tom. I. p. 37, &c.

**James II.** election of the prince of Bavaria, should form a camp on 1688. the heath near Nimeguen, a place too remote from the sea, to give any suspicion that these troops were designed for an imbarquement: that a fleet of fifty men of war should be prepared, with a sufficient number of transports, for the imbarcation of twelve or thirteen thousand men: that, to prevent the alarm which these transports might give, the merchants of Amsterdam, Rotterdam, and other maritime places, should freight as many as they could on divers pretences: that these ships should repair to several ports, at a time assigned, to take the forces aboard, and afterwards to the Goree, where the men of war should expect them: that the prince of Orange should put himself on board this fleet, and at his landing in England, the English persons of quality, by whom he was invited, should disperse themselves into divers parts of the kingdom, to excite insurrections, and levy troops, while the prince, with his little army, should make head against the king. It was not doubted, but the prince's army would considerably increase when he should be in England, and the people in general be ready to second the efforts of those, who were labouring for their deliverance. This whole scheme was executed in the manner it had been resolved, without the ambassadors of England and France being able to learn any thing certain. They conjectured, however, by the naval preparations, that something was secretly contriving against England. Indeed it was difficult to prepare four or five hundred transports and fifty men of war so privately, that they should have no intelligence from their spies. The count D'Avaux failed not to send his conjectures to the court of France, which were immediately transmitted to England. Moreover, Mr. Skelton, king James's envoy at the Hague, had before informed him of an intercepted letter, which intimated that a great project was secretly carrying on against him. But the king was then so secure of success, that he neglected this intelligence, believing it only an artifice to divert him from his designs.

Advice sent  
from France  
to king  
James;  
Echard.  
III. p. 887.  
Is neglected  
by him.

Skelton's  
advice neglected by the  
earl of Sunderland.  
Kennet.  
p. 518.  
Echard.  
III. p. 882.

A little before, Mr. Budé de Verace, a Protestant of Geneva, gentleman-usher to the princess of Orange, having been dismissed, was returned to his own country. When he heard of the great preparations in Holland, he writ to Mr. Skelton, then envoy at Paris, that he had things to communicate to the king of England, that were of no less concern than his crown, but would not discover the secret to any but the king himself; and that if his majesty would let him know



know his pleasure, he would immediately repair to London. James II. Skelton was not wanting to give information to the court of 1688. England, and to repeat it by five or six letters. But no notice was taken of it, whether through a too great security, or that the earl of Sunderland, to whom the letters were addressed, did not think proper to communicate them to the king.

Mean while, as the armament in Holland could hardly be concealed any longer, and the king receiving repeated advices of it, he judged it convenient, at all events, to flatter the people with the expectation of a parliament. So, the 24th of August, he declared in council his intention to call a parliament for the 27th of November, and the chancellor had orders to issue out the writs the 5th of September. However, the writs were not sent, which gave occasion to think, the king only designed to amuse the public.

The next day, Mr. de Bonrepos arrived at London from Paris, and had several conferences with the king. It is pretended, that he offered him, from the king of France, a fleet, and an army of thirty thousand men, but that the earl of Sunderland prevented the offer from being accepted. He is said to represent to the king, "That it would be very dangerous to introduce a foreign army into England, at the very time he was preparing to hold a parliament: That he would entirely lose the hearts of his subjects, and even of those who were most devoted to him: That if the French should have a mind to render themselves masters of the kingdom, he would find but very few who would join to deliver him from such troublesome guests, and that in accepting so powerful an aid, he would quickly become only a viceroy to Lewis XIV." Some have pretended, that this advice was evident treachery in the earl of Sunderland, who was gained by the prince of Orange. But this accusation rests only upon the ill success of the king's affairs afterwards, and upon the supposition that he would have succeeded in his designs, had the king of France's offer been accepted. However, the king refused the aid, because he thought it unnecessary, and yet it is pretended, that he made at this very time a new alliance with Lewis, but which was never published.

In the meantime, the king hearing from several parts, that an armament was making in Holland, he ordered the marquis of Albyville, his ambassador, to present a memorial to the States, to demand what they meant by their warlike preparations, especially by sea, at that time of the year. The States answered, That they armed in imitation of his Britannick majesty, and might with more reason demand an explanation about

The king orders writs for calling a parliament. Echard. III. p. 334.

Rejects the offers of France. Ibid. Kennet, p. 518. Burnet, p. 767.

A new treaty with France. Burnet, p. 768. Memorial of the marquis of Albyville to the States, Aug. 23. Kennet, p. 518. Their answer.

James II. about the alliance into which he was lately entered. This  
 1688. answer increasing the king's suspicions, he now began to take  
 the necessary measures for putting himself in a posture of de-  
 fence. With this view, he gave the governments of Portsmouth  
 and Hull, the two keys of the kingdom, to Papists, and took  
 care to have the majority of the officers and soldiers of these  
 garrisons of that religion.

State-  
 Tracts,  
 T. I. p. 41,  
 42.  
 Burnet,  
 p. 768.  
 R. Coke.

The king  
 puts himself  
 upon his  
 guard.  
 Echard.

III. p. 885.  
 But contin-  
 ues to flat-  
 ter himself.  
 Skelton's  
 advice to the  
 court of  
 France.  
 Id. p. 886.

R. Coke,

Memorial  
 from Comte  
 D'Avaux to  
 the States-  
 General.  
 State-  
 Tracts,  
 T. I. p. 41.  
 Kennet,  
 p. 518.  
 Burnet,  
 p. 768.

Disowned by  
 James.  
 Kennet.  
 Ibid.

State-  
 Tracts,  
 T. I. p. 42.

After all, he could not yet believe, the prince of Orange  
 would venture to attack him. He still relied on his fleet and  
 army, though he had now had several demonstrations of their  
 disaffection. The court of France could not conceive the  
 cause of so strange an indolence; nor was Skelton less puzzled  
 to answer the question so often asked, why the king his master  
 refused the assistance of France? He could only say, that he  
 had no orders about it. At last, in a conference one day  
 with Monsieur de Croissy upon this subject, he told him, it  
 was his private opinion, that if France would threaten to at-  
 tack the States-General, in case any thing was attempted by  
 them against the king of England, such a declaration would  
 break all the prince of Orange's measures. The court of  
 France approving of this proposal, the count D'Avaux pre-  
 sented a memorial to the States the 30th of August, declaring,  
 " That all circumstances inclined the king, his master, to  
 " believe, with reason, that the arming in Holland threatened  
 " England, therefore his majesty had commanded him to  
 " declare to them, on his part,—“ That the ties of friend-  
 " ship and alliance between him and the king of Great Bri-  
 " tain, would oblige him not only to assist him, but also to  
 " look on the first act of hostility that should be committed  
 " by their troops or their fleet, against his majesty of Great  
 " Britain, to be a manifest rupture of the peace, and a breach  
 " with his crown.”—The States, after an ambiguous an-  
 swer to this memorial, demanded of the marquis of Albyville  
 the meaning of the new alliance between the two kings. The  
 same demand was made to the court of England by the States  
 ambassador, Van Citters, to whom they sent a copy of the  
 memorial. Whereupon the king summoned a council, and  
 by the earl of Sunderland's means it was resolved, to disown  
 the proceedings of the count D'Avaux. This resolution was  
 immediately communicated to the ambassador of the States,  
 and to all the King's ministers in foreign courts. Moreover,  
 to convince the public, that the king was not concerned in  
 the memorial presented by the count D'Avaux, Skelton was  
 recalled, and immediately sent to the Tower,



On this occasion, the earl of Sunderland reasoned upon the same principle advanced by him, when the assistance offered by France was in debate. It cannot be denied, that his reasons appeared plausible to the king. But it is supposed by some, that the king was deceived, and that it was not possible for the earl of Sunderland to be deceived also. Wherefore they ascribe his counsels to an express design of betraying his master. Those who talk thus, are, 'tis likely, very sorry the king did not follow the contrary opinion, and embrace the offer of France. They are persuaded, in that case, the prince of Orange's measures would have been disconcerted, his undertaking relinquished, and the king, with the assistance of thirty thousand men, been absolute master of his kingdom. But it must be considered, that this is supposing an uncertain event; that the prime minister's advice preceded the king's disaster some months; and, to accuse him of an intention to betray the king, it must be supposed, that he could have foreseen what the king himself did not: in a word, that he was secretly engaged with the prince of Orange, of which however there is no positive proof. The most plausible ground of suspicion against him is, his admission into that prince's council and confidence, when on the throne. But he was not the only minister of king James, who was thus favoured by king William. It is however certain, though the earl of Sunderland embraced the Popish religion, he was, and still is, suspected by the Papists. There are even Protestants, who owning that he betrayed his master, count this pretended treachery an honour to him, since it tended to the good of the kingdom.

Suspicion  
against the  
earl of Sun-  
derland.  
Orleans.  
Echard.  
III. p. 386.

Though the king, as I said, had ordered writs to be issued out for a new parliament, the order had not been executed. This appears clearly in a proclamation of the 21st of September, wherein the king supposed the elections were not yet begun. It imported:

" That his Majesty having already signified his pleasure to call a parliament, lest those whose right it was to chuse members, should lie under any prejudices and mistakes, through the artifices of disaffected persons, he thought it fit to declare, that as it was his royal purpose to endeavour a legal establishment of an universal Liberty of Conscience for all his subjects, as was also his resolution inviolably to preserve the Church of England, by such a confirmation of the several acts of uniformity, that they should never be altered any other ways than by repealing the several clauses, which inflict penalties upon persons not promoted, or to be promoted

A procla-  
mation a-  
bout a new  
parliament.  
Gazettes,  
No. 2384.  
Hist. of the  
Desert. in  
State-  
Tracts,  
T. I. p. 43.

James II. 1688. " promoted to any ecclesiastical benefices within the meaning  
 " of the said acts, for exercising their religion contrary to the  
 " purport of the said acts of uniformity. And that for the  
 " further securing, not only the Church of England, but the  
 " Protestant religion in general, he was willing the Roman  
 " Catholics should remain incapable to be members of the  
 " house of commons; whereby those fears and apprehensions  
 " would be removed, which many persons had had, ' That  
 " the legislative authority would be engrossed by them, and  
 " turned against Protestants.' "\_\_\_\_\_

Produces no  
 great effect.

This proclamation was too obscure and ambiguous to produce any great effect. There was even a manifest contradiction in the design to repeal the penal laws, and at the same time to preserve the acts of uniformity. Besides, the king spoke only of excluding Papists from the house of commons, and not from that of the lords. But what still more plainly discovered the king's intention to amuse the people, was, that the writs for a new parliament were not issued.

Proposals  
 from the  
 French am-  
 bassador re-  
 jected.  
 Kennet,  
 p. 519.  
 Echard,  
 III. p. 887.

In the mean time, having received so many concurring advices of the prince of Orange's designs, he gave out commissions for augmenting his forces, and sent for some regiments out of Ireland. At the same time, he ordered the fleet to be equipped with all expedition. Monsieur Barillon, the French ambassador, proposed that the king his master should be desired to abandon the siege of Philipsburg, undertaken by the dauphin, and carry the war into Holland. This proposal was approved by several of the council, but opposed by others, on pretence that such a proceeding would alienate the minds of all the English Protestants from the king. This reason prevailed the more easily, as the prince of Orange's friends had spread a report, that the armament of Holland was only designed to prevent the French from landing in England.

The earl of  
 Feversham  
 made gene-  
 ral.  
 Echard.  
 III. p. 887.  
 King James  
 disowns the  
 treaty with  
 France.  
 October 5.  
 Id. p. 888.  
 Kennet,  
 p. 519.  
 Gazettes,  
 No. 2386.

At last, the King, as he could no longer doubt the prince of Orange's intention, appointed the earl of Feversham to command his army, after that post had been declined by the count de Roye. The command of the fleet was given to the lord Dartmouth. As the king was not ignorant how prejudicial to him was the report of his strict alliance with Lewis XIV, he used his utmost endeavours to stifle it. For this purpose, he ordered the marquis of Albyville to present a memorial to the States, to assure them from him, that there was no other treaty between him and France than those that were public. He moreover offered the States to take such measures with them, as might best serve to maintain the peace of Nimeguen, and the twenty years truce concluded in 1684.

But



But the States, whether better informed than the king imagined, or for other reasons, took no notice of the memorial. On the contrary, the pensionary of Holland frankly owned to the marquis of Albyville, that the prince of Orange being invited by the English nobility, was preparing to carry them assistance for restoring the government to its ancient state, the king having entirely changed it since his accession to the crown.

James II.  
1688.

The prince's  
expedition  
declared.

Echard.  
III. p. 883.

It seems that the king had hitherto preserved some hope, either that the States had some other design, or that the prince only intended to deter him from finishing his work. But after this advice received from his ambassador, who added, that many English were at the Hague ready to accompany the prince in his expedition, he discovered the utmost consternation, as well as his whole council. Indeed, it was easy to conceive, that the prince had projected this undertaking, upon private assurances of encouragement from the English. This reflection made the king begin to see the great disproportion between the number of the Protestants, and that of the Papists, and consequently the small hopes of being supported by the latter. In these melancholy thoughts, he believed his best refuge was to recover the Church of England to his interest. He still reckoned, she was unshaken in her principle of passive-obedience, and that by giving her some satisfaction, he should secure her allegiance, after which, he should have no further cause to fear the efforts of the prince of Orange. To this end, he sent for the bishops that were then in London, namely, Winchester, Chichester, Peterborough, Rochester, Ely, Bath and Wells, and told them, that he desired their advice in the present conjuncture. He assured them of his readiness to do whatever should be thought necessary for the security of the Protestant religion and the liberties of his subjects, without derogating from his own prerogative. He concluded with saying, this affair required a mature examination, and therefore prayed them to consult together, in order to give him their advice. The bishops withdrew, and immediately repaired to Lambeth, to form, with the archbishop, (then indisposed) a plan of what they were to counsel the king.

The king in  
a consternation.

resolves to  
consult the  
bishops.  
Kennet,  
p. 520.  
Echard.  
III. p. 889.

The 28th of September, the king published a proclamation to inform his subjects, " That his Majesty had received undoubted advice, that a great and sudden invasion from Holland with an armed force of foreigners, would speedily be made in an hostile manner upon this kingdom; and although some false pretences, relating to liberty, property,

Proclamation  
against  
the prince  
of Orange's  
invasion.  
Gazettes,  
No. 2386.

" and

James II. 1688. " and religion, contrived and worded with art and subtlety; might be given out, it was manifest, however, that no less matter by this invasion was proposed, ' than an absolute conquest of these his Majesty's kingdoms, and the utter subduing and subjecting them, and all his people, to a foreign power,' which was promoted by some of his subjects, being persons of wicked and restless spirits, implacable malice, and desperate designs; who having no sense of the misery of former intestine divisions, nor being moved by his majesty's reiterated acts of grace and mercy, did again endeavour to embroil this kingdom in blood and ruin, to gratify their own ambition and malice, proposing to themselves a prey and booty in such a public confusion. That tho' his majesty had notice, that a foreign force was preparing against him, yet he had always declined any foreign succours, but rather had chosen to rely upon the true and ancient courage, faith and allegiance of his own people, with whom he had often ventured his life for the honour of this nation, and in whose defence against all enemies, he was firmly resolved to live and die; and therefore his majesty solemnly conjured his subjects to lay aside all animosities, jealousies, and prejudices, and heartily and cheerfully to unite together, in the defence of him and their native country. — That albeit the design had been carried on with all imaginable secrecy, and endeavours to surprize and deceive his majesty, yet he had not been wanting on his part, to make such provisions, as did become him, and made no doubt of being found in so good a posture, that his enemies might have cause to repent their rash and unjust attempts." In the conclusion, his majesty declared, " That he did intend to have met his parliament in November next, and that the writs were issued forth accordingly, proposing to himself, amongst other things, That he might be able to quiet the minds of all his people in matters of religion, but that in regard of this strange attempt, designed to divert his said gracious purposes, he found it necessary to recall his foresaid writs, &c. "

Kennet,  
p. 519, 520.  
The bishop  
of London  
restored, and  
a new lord-  
mayor ap-  
pointed.  
Gazettes,  
No. 2388.

Tho' the king pretended an entire reliance on the allegiance of his subjects, he knew however he had given them too much cause of discontent, to be assured of their affection. Wherefore, he thought it necessary to give them other proofs of his sincerity than bare words. To this end, he took off the bishop of London's suspension, and appointed Sir John Chapman, a churchman, to succeed Sir John Eyles, the pre-  
sent



sent lord-mayor of London, who was an Anabaptist. More- James II.  
over, being informed that the bishops would advise him to 1688.  
restore the city-charter, he sent for the lord-mayor, alder-  
men, and sheriffs, and told them, " That he resolved to re-  
" store to them their ancient charter and privileges, and put  
" them into the same condition they were in at the time of  
" the judgment pronounced against them, upon the Quo  
" Warranto." The same day, the 2d of October, he pub-  
lished a general pardon by proclamation, out of which were  
excepted, Robert Parsons, Edward Matthews, Samuel Ven-  
ner, Andrew Fletcher, colonel John Rumsey, major John  
Manley, Isaac Manley, Francis Charleton, John Wildman,  
Titus Oates, Robert Ferguson, Gilbert Burnet, Sir Robert  
Peyton, Laurence Braddon, Samuel Johnson, Thomas Tip-  
ping, and Sir Rowland Guynne. But all this was not capa-  
ble to satisfy the people, who aspired to a more ample and  
more certain deliverance.

The king  
promises to  
restore the  
city-charter.  
Gazettes,  
No. 2387.  
State Tracts  
T. I. p. 45.  
Echard.  
III. p. 890.

The day after, the 3d of October, the archbishop of Can-  
terbury, attended by eight bishops, repaired to Whitehall,  
and was admitted to an immediate audience. After a short  
speech, he presented to the king the result of their conferences  
drawn up in ten articles, which were so many advices, and  
withal, reproaches upon his past government. These advices  
were :

State Tracts  
T. I. p. 46.  
Kennet,  
p. 520.  
Burnet,  
p. 784.

I. " To put the whole management of his government,  
" in the several counties, into the hands of such of the nobi-  
" lity and gentry there, as were legally qualified for it.

II. " To annul his commission for ecclesiastical affairs ;  
" and that no such court be erected for the future.

III. " That no dispensation might be granted or conti-  
" nued, by virtue whereof any person not duly qualified by  
" law, had been put into any place, office, or preferment in  
" church or state, or in the universities, or continued in the  
" same, especially such as had cure of souls annexed to them ;  
" and particularly, that he would restore the president and  
" fellows of St. Mary Magdalen college in Oxford.

IV. " To set aside all licences or faculties, by which any  
" persons of the Romish communion might pretend to be  
" enabled to teach public schools.

V. " To desist from the exercise of his dispensing power,  
" and to permit that point to be calmly and freely debated,  
" and finally settled in parliament.

VI. " To inhibit the four foreign bishops, who stiled  
" themselves Vicars Apostolical, from farther invading the  
" eccle-

James II. " ecclesiastical jurisdiction, which by law was vested in the  
1688. " bishops of the Church of England.

VII. " To fill the vacant bishoprics, and other ecclesiastical promotions, within his gift, both in England and Ireland, with men of learning and piety : and in particular, (which the archbishop owned to be his peculiar boldness, since it was done without the privity of his brethren) forthwith to fill the archiepiscopal chair of York (which had so long stood empty, and upon which a whole province depended) with some very worthy person : for which he was so bold to say, his majesty had then before him a very fair choice,"

VIII. " To supersede all farther prosecutions of Quo Warranto's against corporations, and to restore to them their ancient charters and privileges ; as they heard God had put into his heart for the city of London, which they intended otherwise to have made one of their principal requests.

IX. " That writs might be issued out with convenient speed, for calling of a free and regular parliament, in which the Church of England might be secured according to the acts of uniformity : provision might be made for a due liberty of conscience, and for securing the liberties and properties of all his subjects, and a mutual confidence might be established between his majesty and all his people.

X. " Above all, That his majesty would be pleased to permit his bishops, to offer such motives and arguments, as (they trusted) might, by God's grace, be effectual to persuade his majesty to return to the communion of the Church of England, into whose most holy catholic faith he was baptized, in which he was educated, and to which, it was their daily earnest prayer to God, that he might be re-united."

These advices clearly show, that what has hitherto been seen concerning king James's government, is not grounded upon calumnies spread by his enemies. For how, on the 3d of October (a month before the prince of Orange's arrival, and at a time when the events were yet uncertain) could these nine bishops conspire together to reproach the king with a violation of the laws in all these articles, under colour of giving him counsel ? Besides, these advices agree, for the most part, with the prince of Orange's declaration, signed at the Hague, at the very time the bishops were consulting together at London. In short, the king's proceedings two days after, invincibly prove the truth of these facts. So, the advocates  
for

Sprat's letter,



for king James can only plead, either that he had a right to James II. act as he did, or, though he had no such right, his subjects 1688. were bound to submit to his will. But this is not the place to examine these questions.

The king perceiving that a refusal to comply with the advice of the bishops, would only increase the people's jealousy, resolved, though probably with regret, to redress most of the grievances complained of. For this purpose, the commission for ecclesiastical causes was dissolved. The next day, the lord chancellor had orders to carry back in person the charter of London. The lord-lieutenants of the several counties were required to inform themselves of the abuses and irregularities committed in the late regulations of corporations, in order to redress the same. The bishop of Winchester, visitor of Magdalen college in Oxford, was ordered to settle that society regularly, and according to their statutes. A proclamation was issued out for restoring corporations to their ancient charters, liberties, rights, and franchises. The lord-lieutenants were displaced in several counties. Popish justices of the peace, mayors, recorders, and other magistrates, were removed, and Protestants put in their places. Thus, in the space of about twelve days, that formidable fabric was in effect, or in a great measure demolished, which the Romish cabal had spent near four years in erecting.

King James takes some steps towards the redress of grievances. October, Gazettes. No. 2385, 2388, 2389, 2390, 2391. Echard. III. p. 892. Kennet, p. 519, 522. State Tracts, T. I. p. 48.

But all these proceedings were not capable to restore the king to the confidence of his subjects, because they came too late, and seemed rather the effect of necessity than inclination. No other motive could be imagined of the king's destroying his own work, than his fear of being deserted on the arrival of the prince of Orange, who was daily expected. Whence it was inferred, that the king's condescension would last no longer than the danger. What had been only suspected, was soon found to be true. The bishop of Winchester, pursuant to the king's order, having caused a citation to be fixed on the gates of Magdalen college, to recall Dr. Hough and the ejected fellows of that society, upon the news of the dispersion of the prince's fleet by a tempest, was recalled on some frivolous pretence, and the restoration of the college deferred. But afterwards, the news proving false, the king resumed his pretended affection for the university, and the college was restored. This extremely prejudiced the king, as it manifestly showed, that in his late changes in favour of the Protestants, his aim had been only to amuse them, till he should be able to retract. Such as had fallen into the snare, and believed the king to have acted with sincerity, lost all their

Gives occasion for new suspicions.

Kennet, p. 522. Burnet, p. 784.

Nov. 24.

James II. former confidence in him. So, James saw himself at once reduced to the assistance of his Popish subjects alone, who were incapable to restore his sinking affairs.

As all his hope was placed in his army, he applied himself, as far as lay in his power, to augment and strengthen it with troops, which should wholly depend on him. In obedience to orders already given, two thousand five hundred men landed at Chester from Ireland, and three thousand Scots were advanced to Carlisle. Besides this, new commissions were granted (a), for levying ten regiments of horse and foot, not to mention several independent companies. All the militia had orders to be in readiness to march. Lastly, A proclamation was published, commanding all horses, oxen, and cattle, to be driven and removed to the space at least of twenty miles, from the places where the enemy should attempt to land. This was all he could do. But it was not in his power to cause his subjects to second him with affection, or his troops to serve him faithfully. Accordingly, it was not upon an army of thirteen or fourteen thousand men that the prince of Orange relied, but upon the disposition of the English, who impatiently expected his arrival. Without this, so small an army would not have been capable of conquering England.

In the mean time, the populace of London growing insolent, by the hopes of the prince's coming, began to insult the Popish chapels; wherefore the king ordered them to be shut up, for fear of an insurrection in so dangerous a juncture. On the other hand, many Romish priests and Jesuits perceiving the gathering storm, and presaging nothing good from the disposition of the people, and the court's consternation, began gradually to disappear, and to consult their own safety by a timely retreat into foreign parts.

In the midst of all these distractions, the king caused the prince of Wales to be solemnly baptized; the pope, represented by his nuntio, being godfather, and the queen-dowager godmother. Father Saban officiated, and named him James-Francis-Edward.

At the same time the court received a pamphlet, published in Holland, and entitled, "A Memorial of the English Protestants, presented to their Highnesses, the prince and princess of Orange." It was ascribed to Dr. Burnet, or major Wildman, wherein, after a long narrative of the grievan-

(a) Particularly to Henry Cavendish, Duke of Newcastle; to the lord Brandon; to the marquis de Miremont, nephew to the earl of Fever-

sham; to colonel Henry Gage, and colonel Solomon Richards, *Gazettes*, No. 2387.



ces of the nation, the author complained of king James's obliging his subjects to own a supposititious child for the prince of Wales, adding, "That his majesty would never suffer the witnesses that were present at the queen's delivery to be

James II.  
1688.

heard and examined." The king was no stranger to the suspicions entertained by the people on this account, but hitherto had pretended to be ignorant of, or at least to despise, them. He perceived, however, that on this occasion, he could not, without great prejudice to himself, help answering so public a challenge. He therefore held an extraordinary

council the 22d of October, to which were called the queen-dowager, all the lords spiritual and temporal then in town, the lord-mayor and aldermen of London, the judges, and several of his majesty's learned council. All these being assembled, the king told them, "He had called them together

upon a very extraordinary occasion; but that extraordinary diseases must have extraordinary remedies: That the malicious endeavours of his enemies had so poisoned the minds

of some of his subjects, that by the reports he had from all hands, he had reason to believe, that very many did not

think this son, with which God had blessed him, to be his, but a supposed child. But, he might say, that by a particular providence, scarce any prince was ever born,

where there were so many persons present. That he had taken this time to have the matter heard and examined there, expecting that the prince of Orange, with the first easterly wind, would invade this kingdom: And as he had

often ventured his life for the nation before he came to the crown, so he thought himself more obliged so to do now

he was king, and did intend to go in person against him, whereby he might be exposed to accidents; and therefore

he thought it necessary to have this now done, in order to satisfy the minds of his subjects, and to prevent the kingdom's being engaged in blood and confusion after his death:

That he had desired the queen-dowager to give herself the trouble to come hither, to declare what she knew of the

birth of his son; and that most of the ladies, lords, and other persons who were present, were ready to depose upon

oath their knowledge of the matter."

After this speech, depositions were taken, first of the queen-dowager, who only said, "That she was in the room when

the queen was delivered," without any thing more positive or particular. After her followed forty witnesses, of which

seventeen were Papists, and it was begun with proving, that the queen was brought to bed while many persons were in the

room.

I 2

room.

The king calls an extraordinary council to prove the birth of the prince of Wales. His speech to them. Echard. III. p. 893. Burnet, p. 785.

Depositions taken.

James II. room. To this tended the testimonies of the eighteen lords who  
 1688. accompanied the king thither. This proof signified nothing,  
 or was very ambiguous. It was well known, there were a  
 great many persons in the room at the time the queen was said  
 to be delivered; which doubtless, was all that was meant by  
 this proof. But it was not sufficient to prove the reality of  
 the delivery. Some of the ladies deposed, that they saw the  
 child soon after in the arms of the midwife. But as no man  
 in the council durst put any questions to the witnesses, con-  
 cerning several circumstances, these general depositions were  
 incapable to remove all suspicions. The midwife deposed po-  
 sitively, that she took the child from the queen's body. The  
 countess of Sunderland deposed, that the queen called her to  
 give her her hand, that she might feel how the child lay,  
 "which (added she) I did," but she did not say whether she  
 felt the child or not. The bishop of Salisbury adds, That  
 the countess of Sunderland told the duchess of Hamilton,  
 (from whom he had this particular) that when she put her  
 hand into the bed, the queen held it, and let it go no lower  
 than her breasts, so that really she felt nothing. Many la-  
 dies deposed, That they had often seen the marks of milk on  
 the queen's linen near her breasts. Two or three deposed,  
 That they saw it running out at the nipple. But what is re-  
 markable, none of these ladies named the time in which they  
 saw the milk, except one, who named the month of May.  
 Now if it be true, as was before related, that the queen was  
 really with child till the ninth of April, and that she miscar-  
 ried that day, all that was mentioned of milk in the queen's  
 breasts, particularly by her that fixed it to the month of May,  
 might have followed upon that miscarriage, and be no proof  
 concerning the late birth. Mrs. Pierce the laundress deposed,  
 That she took linen from the queen's body once, which car-  
 ried the marks of a delivery. The bishop objects here, that  
 it is strange she should speak only to one time. The lady  
 Wentworth was the single witness that deposed, That she  
 had felt the child move in the queen's belly, but she fixed it  
 to no time.

Remarks  
 upon these  
 depositions.

In general, this briefly is the use that may be made of the  
 suspicions mentioned by several authors, and of these deposi-  
 tions, namely, There being three cases, in none of which  
 the two parties agree, the depositions are not applicable to any  
 of the cases, without being contradicted by those who main-  
 tain one of the other two cases. Let us take, for instance,  
 the two depositions, which, next to that of the midwife, ap-  
 pear most convincing, namely, That of the lady who had seen



seen milk run from the queen's breasts; and that of the lady James II. Isabella Wentworth, who had felt the child in the womb. 1688.

These two testimonies are sufficient against those who maintain, that the queen was not with child from January, the time of her declared pregnancy, to the 10th of June, the time of her delivery. But they are insufficient against those who pretend she was really with child, from the 6th of October to the ninth of April, when she had a miscarriage, for the reasons before mentioned. To be able therefore to give a certain judgment concerning the birth of the prince of Wales, it is necessary, 1. That facts should be agreed in, I mean, whether it be true, that the queen was really with child, and that she had a miscarriage. 2. That those who derive their suspicions from the queen's obstinate refusal to give satisfaction to the public, should fix the time of this obstinacy to the interval between the 9th of April, the day of her pretended miscarriage, and the 10th of June, the day of her delivery. For in supposing the reality of her pregnancy till Easter-week, the suspicions arising from the queen's obstinacy, cannot but be ill-grounded, unless this obstinacy is confined to the space of time, between the miscarriage and the delivery, which it is not. 3. That the two ladies who deposed concerning the milk and the motion of the child, should have fixed the time to the same interval, otherwise their testimony proves nothing against those who maintain, that the queen was really with child till Easter week, and had then a miscarriage; but this is what does not appear. As to the testimony of the midwife, which is the principal and most positive, all that can be objected to it, is, that it is a single testimony, and that besides she being a Papist, might have been corrupted. But this is only a conjecture, a bare possibility. It is therefore clear, that to decide this question in a manner capable to satisfy those who only seek the truth, a more perfect knowledge must be had of many circumstances which as yet lie concealed.

The king's precaution produced not the expected effect. The suspicion of an imposture was so deeply rooted in the minds of most of the English, that it was rather confirmed than removed by this examination. The mysterious conduct observed at a time when, considering the general suspicion, all possible precautions ought to have been taken to render the birth unquestionable, made a stronger impression than all these testimonies, and the rather, as they were found to be very defective. Before this examination, the presumption of law was for the prince, since he was owned by both parents, so that the proof lay on the other side, and ought to be offered

Suspitions  
not removed  
by the depo-  
sitions,

Burnet,  
p. 786.

James II. by those who questioned it. But after the king had undertaken to prove the reality of his son's birth, by forty witnesses, of which more than thirty said nothing material, and the rest fixed no time to what they deposed, he left room to his enemies to object against these very depositions.

The king's speech after the examination of the witnesses.

The king's own testimony was not more effectual. After the witnesses were examined, he told the assembly, " That " the princess Anne of Denmark would have been present ; " but that she being with child likewise, and having not " lately stirred abroad, could not come so far without ha- " zard." Adding further, " That tho' he did not question " but every person there present was satisfied before in this " matter, yet by what they had heard, they would be better " able to satisfy others : That besides, if he and the queen " could be thought so wicked as to endeavour to impose a " child upon the nation, they saw how impossible it would " have been ; neither could he himself be imposed upon, ha- " ving constantly been with the queen during her being with " child, and the whole time of her labour. That there was " none of them but would easily believe him, who had suf- " fered so much for conscience sake, incapable of so great a " villany, to the prejudice of his own children ; and that he " thanked God, that those that knew him, knew well, that " it was his principle to do as he would be done by, for " ' that was the law and the prophets ; ' and he would ra- " ther die a thousand deaths, than do the least wrong to any " of his children."

The depositions are recorded. Kennet. p. 523.

The reasons alledged by the king in this speech were far from being convincing, since those who believed the imposture, were persuaded, that the king was chiefly concerned in it, notwithstanding all his asseverations, which were but little regarded. It is a sad thing for a king not to be credited by the body of his subjects. The depositions were solemnly enrolled in chancery, and afterwards printed and dispersed among the people. But this did not prevent a general belief, that the prince of Wales was supposititious. So this birth remains hitherto in uncertainty, and probably will long remain so. For it must be observed, that after the king and queen had withdrawn into France, there was no finding either the midwife or the queen's ladies, who had deposed the most material circumstances of the pregnancy or the delivery.

The earl of Sunderland removed from all his places,

The 28th of October, the earl of Sunderland was suddenly removed from his places of president of the council, and principal secretary of state. It is believed that his neglect of Skelton's



ton's letters to him, was the principal cause of his disgrace. James II. He said upon this subject, "If he gave no account of these letters to the king, it was because Skelton never wrote but second-hand news." But these were not mere letters of news. One Wickstead, formerly a monk, being seized for holding correspondence with the king's enemies, charged the earl of Sunderland to his face, with revealing his majesty's secrets to the prince of Orange. But being committed to the custody of a messenger, he made his escape the next day.

However, it is certain, Sunderland had been some time suspected by the Papists, who, in all appearance, persuaded the king of his secret intelligence with the prince of Orange. He published afterwards an apology, but the discussion of this affair would be too great a digression.

As the prince of Orange was expected with the first easterly wind, some of the most devoted to the king during his prosperity, thought proper to secure themselves by letters of pardon for their illegal actions. Amongst these were chancellor Jefferies, Sir Nicholas Butler, the bishop of Chester, the bishop of Durham, and about twenty more, to whom the king readily granted the favour they desired.

While these things were transacting in England, the necessary dispositions were making in Holland for the assistance of the English. For it was upon this foot that the States let their troops to the prince of Orange; and what the king called in England an invasion, in Holland was termed, "a brotherly assistance lent by the States and the prince to the distressed English." It can hardly be thought, that the prince of Orange, with an army of thirteen or fourteen thousand men, would have undertaken a descent into England, had he not been assured of a favourable reception from the generality of the people. But as it was necessary to remove the suspicion fomented by the king, that the prince was coming to conquer and subdue England, he thought proper, in a declaration, to show the true motives of his undertaking. This declaration, dated the 10th of October, New Style, was divided into twenty-six articles, reducible to these three general heads:

- "The first contained a particular enumeration of the grievances of the English nation, especially the king's arrogating to himself a dispensing power: his advancing Papists to civil, ecclesiastical, and military employments, and allowing them to sit in the privy-council: His setting up an illegal commission for ecclesiastical affairs, in which there was one of his ministers of state, who made public profession

Letters of pardon granted to several of the most obnoxious persons. Nov. I. Echard. III. p. 897.

The prince of Orange's declaration. Hist. of Defect. in State Tracts, T. I. p. 67. Kennet, p. 523. Echard.

James II. " sion of the Popish religion, and who, at the time of his  
 1688. " first professing it, declared, ' That for a great while be-  
 " fore, he had believed that to be the only true religion ;'  
 " and by which not only the bishop of London was sus-  
 " pended, but the president and fellows of Magdalen college  
 " arbitrarily turned out of their freeholds, contrary to that  
 " express provision in Magna Charta, ' That no man shall  
 " lose his life or goods but by the laws of the land : ' his al-  
 " lowing Popish monasteries and colleges of Jesuits to be  
 " created : his turning out of public employments, all such  
 " as would not concur with him in the repeal of the test and  
 " penal laws : his invading the privileges, and seizing on the  
 " charters of most corporations, and placing Popish magi-  
 " strates in some of them : his subjecting the courts of judi-  
 " catory to his arbitrary and despotic power, and putting the  
 " administration of justice into the hands of Papists : his not  
 " only arming the Papists, in contempt of the laws, but  
 " likewise raising them up to the greatest military trusts, both  
 " by sea and land, strangers as well as natives, and Irish as  
 " well as English, that he might be in a capacity to enslave  
 " the nation : his putting the whole government of Ireland  
 " into the hands of Papists : his assuming an absolute and ar-  
 " bitrary power in the kingdom of Scotland ; from which it  
 " was apparent, what was to be looked for in England."

Secondly, His highness alledged, " That those great and  
 " insufferable oppressions, and the open contempt of all law,  
 " together with the apprehension of the sad consequences that  
 " must certainly follow upon it, had made the subjects to look  
 " after such remedies as are allowed of in all nations, and in the  
 " most absolute monarchies, all which had been without ef-  
 " fect ; his majesty's evil counsellors having endeavoured to  
 " make all men apprehend the loss of their lives, liberties,  
 " honours, and estates, if they should go about to preserve  
 " themselves from this oppression, by petitions, and represen-  
 " tations ; an instance of which was, the prosecution of the  
 " seven bishops : that a peer of the realm (the lord Lovelace)  
 " was treated as a criminal, only because he said, ' That the  
 " subjects were not bound to obey the orders of a Popish  
 " justice of peace ; ' though it is evident, that they being by  
 " law rendered incapable of all such trusts, no regard is due  
 " to their orders : that both he, and his consort the princess,  
 " had endeavoured to signify, with terms full of respect, to  
 " the king, the just and deep regret, which all these pro-  
 " ceedings had given them, and declared what their thoughts  
 " were, touching the repealing of the test and penal laws :

but



“ but that these evil counsellors had put such ill constructions James H.  
 “ on their good intentions, that they had endeavoured to 1688.  
 “ alienate the king more and more from them. That the  
 “ last and great remedy for all these evils, was, the calling  
 “ of a parliament, which could not yet be compassed, nor  
 “ could be easily brought about; for those men apprehend-  
 “ ing that a lawful parliament would bring them to account  
 “ for all their open violations of law, and for their conspira-  
 “ cies against the Protestant religion, and the lives and li-  
 “ berties of the subjects, they had endeavoured, under the  
 “ specious pretence of liberty and conscience, first to sow di-  
 “ visions between those of the Church of England, and Dis-  
 “ senters, with design to engage Protestants, who are equal-  
 “ ly concerned to preserve themselves from Popish oppression,  
 “ into mutual quarrellings; that so by these, some advan-  
 “ tage might be given them to bring about their designs;  
 “ and that both in the elections of members of parliament,  
 “ and afterwards in the parliament itself: that they had also  
 “ made such regulations, as they thought fit and necessary,  
 “ for securing all the members that were to be chosen by the  
 “ corporations; by which means they hoped to avoid the  
 “ punishment they deserved, though it was apparent, that  
 “ all acts, made by Popish magistrates, were null and void  
 “ of themselves: so that no parliament could be lawful,  
 “ for which the elections and returns were made by Popish  
 “ magistrates, sheriffs and mayors of towns; and therefore  
 “ as long as the magistracy was in such hands, it was not  
 “ possible to have a free parliament legally called and chosen.  
 “ That there were great and violent presumptions, inducing  
 “ his highness to believe, that those evil counsellors, in  
 “ order to the gaining the more time for the effecting their  
 “ ill designs, had published, ‘ That the queen had brought  
 “ forth a son;’ though there had appeared, both during the  
 “ queen’s pretended bigness, and in the manner wherein  
 “ the birth was managed, so many just and visible grounds  
 “ of suspicion, that not only he himself, but all the good  
 “ subjects of the kingdom, did vehemently suspect, ‘ That  
 “ the pretended prince of Wales was not born of the queen;’  
 “ and tho’ many both doubted of the queen’s bigness, and  
 “ of the birth of the child, yet there was not any thing  
 “ done to satisfy them, or put an end to their doubts.  
 “ That since his consort the princess, and likewise he  
 “ himself, had so great an interest in this matter, and such  
 “ a right as all the world knew, to the succession of the  
 “ crown; since all the English did in the year 1672, when  
 “ Holland

James II. "Holland was invaded with a most unjust war, use their  
 1688. "utmost endeavours to put an end to that war, and that in  
 "opposition to those who were then in the government;  
 "since the English nation had ever testified a most particular  
 "affection and esteem, both to his highness's dearest con-  
 "fort, and to himself, he could not excuse himself from  
 "espousing that interest, in a matter of such high conse-  
 "quence, and for contributing all that in him lay, for the  
 "maintaining both of the Protestant religion and the laws  
 "and liberties of these kingdoms: to the doing of which,  
 "his highness 'was most earnestly solicited by a great many  
 "lords, both spiritual and temporal, and by many gentle-  
 "men, and other subjects of all ranks."

In the last place his highness declared, "That for the  
 "forementioned reasons, he has thought fit to go over to  
 "England, and to carry with him a force sufficient to de-  
 "fend him from the violence of those evil counsellors:  
 "that his expedition was intended for no other design, but  
 "to have a free and lawful parliament, assembled as soon  
 "as it was possible; and that in order to this, all the late  
 "charters, by which the elections of burgeses are limited,  
 "contrary to the ancient custom, should be considered as  
 "null and of no force: that to this parliament he would  
 "refer the enquiry into the birth of the pretended prince of  
 "Wales, and of all things relating thereto, and to the  
 "right of succession: that he would concur in every thing  
 "that might procure the peace and happiness of the nation,  
 "under a just and legal government: that he would keep  
 "the forces under his command, under all the strictness of  
 "martial discipline, and promised, that he would send  
 "back all those foreign forces, as soon as the state of the  
 "nation would admit of it: that therefore he invited and  
 "required all persons whatsoever to come and assist him,  
 "in order to the executing his designs against all such as  
 "shall endeavour to oppose him: that he would likewise  
 "take care, that a parliament should be called in Scotland,  
 "for restoring the ancient constitution of that kingdom,  
 "and for bringing the matters of religion to such a settle-  
 "ment, that the people might live easy and happy: that he  
 "would also study to bring the kingdom of Ireland to such  
 "a state, that the settlement there might be religiously ob-  
 "served, and that the Protestant and British interest there  
 "might be secured."

This declaration being printed, and ready to be sent  
 over to England to be dispersed among the people, the prince  
 was



was informed, that the king, by the advice of the bishops, James II. had redressed several grievances mentioned in his declaration. 1688.  
Wherefore he thought fit to make the following addition to it.

“ After we had printed our declaration, we have understood, that the subverters of the religion and laws of these kingdoms, hearing of our preparations to assist the people against them, have begun to retract some of the arbitrary and despotic power that they had assumed, and to vacate some of their unjust judgments and decrees: the sense of their guilt, and the distrust of their force, have induced them to offer to the city of London some seeming relief from their great oppressions; hoping thereby, to quiet the people, and to divert them from demanding a re-establishment of their religion and laws, under the shelter of our arms: they did also give out, ‘That we do intend to conquer and enslave the nation;’ and therefore it is, we have thought fit to add a few words to our declaration.

“ We are confident, that no persons can have such hard thoughts of us, as to imagine, we have any other design in this our undertaking, than to procure a settlement of the religion, and of the liberties and properties of the subject, upon so sure a foundation, that there may be no danger of the nation’s relapsing into the like miseries at any time hereafter. And as the forces we have brought along with us are utterly disproportioned to that wicked design of conquering the nation, if we were capable of intending it; so the great numbers of the principal nobility and gentry, that are men of eminent quality and estates, and persons of known integrity and zeal, both for the religion and government of England; many of them being also distinguished by their constant fidelity to the crown, who do both accompany us in this expedition, and have earnestly solicited us to it, will cover us from all such malicious insinuations: for it is not to be imagined, that either those who invited us, or those who are already come to assist us, can join in a wicked attempt of conquest, to make void their own lawful titles to their honours, estates, and interests. We are also confident, that all men see how little weight there is to be laid on all promises and engagements that can be now made, since there has been so little regard had in the time past, to the most SOLEMN PROMISES. And as that imperfect redress that is now offered, is a plain confession of those violences

“ of

James II. 1688. "of the government that we have set forth, so the defectiveness of it is no less apparent; for they lay down nothing but which they may take up at pleasure, and they reserve entire, and not so much as mention, their claims and pretences to an arbitrary and despotic power, which has been the root of all their oppression, and the total subversion of the government. And it is plain, that there can be no redress, no remedy offered but in parliament, by a declaration of the rights of the subjects that have been invaded, and not by any pretended acts of grace, to which the extremity of their affairs have driven them. Therefore it is that we have thought fit to declare, that we will refer all to a free assembly of this nation, in a lawful parliament."

The resolution of the States General. Echard. III. p. 900.

About the same time was published, "The resolution of the States-General, containing the reasons that had obliged them to assist his highness the prince of Orange with ships, men, and ammunition, in his intended expedition into England." The two principal reasons were: 1. That the prince of Orange had been invited to this expedition by the English nobility, gentry, and clergy: 2. That the States had just cause to fear, that in case the king of England became absolute in his own kingdom, he would, in conjunction with the king of France, endeavour to bring their state to confusion, and, if possible, totally to subject it. This fear was founded upon the earl of Castlemain's pressing the pope, and the patron cardinal Cibo, (during his embassy at Rome) to admit his master to mediate a reconciliation between the courts of Rome and Versailles, assuring, "When that reconciliation was brought about, the two kings would effectually serve the cause of the church, and begin with the destruction of Holland." The pope, to whom such projects were not agreeable, informed the emperor of it, who communicated it to the prince of Orange. This is at least what Dr. Burnet says in one of his letters.

The prince of Orange takes his leave of the States. He sets sail. Kennet. p. 525, 526. Burnet. p. 774, 782.

Every thing being ready for the projected expedition, the prince of Orange went into the assembly of the States-General the 16th of October, to take a solemn leave of them. This was done in so tender and moving a manner, that both himself and the States melted into tears. He embarked the 19th of October, on a frigate of about thirty guns. The fleet consisted of fifty men of war, twenty-five frigates, as many fire-ships, with near four hundred victuallers, and other vessels, for the transportation of above four thousand horse, and ten thousand foot. The most considerable of

the



the English, who accompanied the prince, were, the earls James II. of Shrewsbury and Macclesfield, the Lords Mordaunt, 1688: Wilshire, Paulet, Elan, Dunblain, admiral Herbert, Mr. Herbert, colonel Sidney, Mr. Russel, Sir Rowland Gwin, major Wildman, Dr. Burnet, Mr. Harbord, Mr. Ferguson, and many others less known. The prince had with him, besides the general officers of the Dutch forces, count Schomberg, marshal of France, who had last served the elector of Brandenburg, count Charles his son, monsieur Caillemote, younger son to the marquis of Rouvigny, and about three hundred French officers, who had left their country for their religion. Admiral Herbert led the van of the fleet, vice-admiral Evertzen brought up the rear, and the prince placed himself in the main body, carrying a flag with English colours, and their highnesses arms surrounded with this motto, THE PROTESTANT RELIGION AND LIBERTIES OF ENGLAND; and underneath, the motto of the house of Nassau, JE MAINTIENDRAI, i. e. "I will maintain."

This numerous fleet had been but few hours under sail, when suddenly the wind coming more westerly, there arose such a storm, that in less than two hours the whole fleet was so dispersed, that the next day scarce two ships could be seen together. The storm continued two days, during which time, the ships endeavoured to gain, some one port some another. Many were driven northward, and could not reach the appointed rendezvous till eight days after. Nevertheless, the damage was so inconsiderable, that there was properly only loss of time. But on this occasion, the States made use of an artifice, which did the king great prejudice; they ordered the Harlem and Amsterdam Gazettes to aggravate the damage sustained by the fleet, and to insinuate, that the prince could not possibly be in a condition to pursue his design till the next spring (b). This was intended to amuse the court of England, and make them more remiss in their preparations. But besides this advantage, they received from that artifice another still more considerable, which was, that the king, hearing the news with great pleasure, flattered himself, that he had now nothing more to fear, and that before the spring, he should infallably be able to break all the prince of Orange's measures. In this

His fleet dispersed by a tempest. State Tracts. T. I. p. 56. Kennet. p. 526. Echard. III. p. 902. Burnet. p. 783.

(b) It was said in the Gazettes, that the prince had lost most of his own horses; and that there were one thousand five hundred horses dead or unserviceable; whereas there were really but four hundred lost. See State Tracts, Tom. I. p. 56.

belief,

James II. belief, he revoked some of his acts of grace granted to his subjects, and thereby clearly showed, that these acts were extorted by necessity, and that consequently, no change was to be expected in his conduct for the future.

The king  
revokes some  
of his acts

of grace.

Echard.

The prince's

declaration

falls into his

hands.

Kennet.

p. 526.

Hist. of

Desert.

p. 56.

It was in this critical juncture that captain Langham, an Englishman in the service of the States, was seized on his arrival in England. In his portmanteau were found many copies of the prince's declaration, which were sent to court. The king having read the declaration, was surprized at that expression, "That the prince was most earnestly invited over by divers of the lords, both spiritual and temporal, and by many gentlemen, and others." Immediately he sent for the archbishop, and four or five bishops then in London, and demanded of them, "Whether the contents of the prince's declaration, relating to their inviting him over, were true?" The bishops contented themselves with promising in general, their faithful allegiance to his majesty. But the king, little satisfied with this answer, required them to justify themselves to the world, as to their part in that invitation. At the same time he fixed a day, whereon he obliged them to present a paper under their own hand, signifying their abhorrence of the prince of Orange's intended invasion. He farther let them know, "That a declaration was then in the press against the prince of Orange, and was only deferred, to have their paper of abhorrence put into it."

Who is for  
obliging the  
bishops to  
disown it.

They excuse  
themselves.

Kennet.

p. 527.

Echard.

III. p. 993.

On the day appointed, the bishops repaired to Whitehall, and as soon as they were in the king's presence, he called for their paper. But with all submission, "They begged to be excused from writing any thing of that nature, and for making a particular defence to a general accusation, least they should give the first precedent of that kind against the privilege of peers: besides, that their profession being to promote peace, they thought it belonged not to them to declare war, especially against a prince so nearly allied to the crown." This answer threw the king into a violent rage. However, they persisted in their refusal, in as dutiful terms as possible. The king, not being able to prevail with them, ordered them to withdraw with great indignation. They were afterwards informed, that one of the principal members of the council and jesuited party, advised the king, "To imprison them all, and extort the truth from them by violence."

Sprat's Let.

Mean time, the king being desirous to conceal the prince of Orange's declaration from the people, forbade the publishing



lishing and dispersing it by proclamation. But being afterwards informed, that a great number of copies were handed about the kingdom, and sensible that his prohibition would be to no purpose, he chose to print the declaration with remarks, tending to justify his own, and render odious the prince of Orange's conduct.

The king prints the prince's declaration, with his own remarks upon it. *Gazettes*, No. 2396. *State Tracts* T. I. p. 66. Two letters addressed to the army and the fleet. *Ibid.* p. 77. *Kennet.* p. 525. *Echard.* III. p. 904.

About the same time was printed a letter from the prince of Orange to the officers of the English army, and another from admiral Herbert to the English fleet. The design of these two letters was the same, namely, to inform the army and the fleet of the true intentions of the prince, and to represent to them, that in being the king's instruments to accomplish his designs, they were labouring their own ruin. Wherefore the officers, soldiers, and sailors, were conjured not to suffer themselves to be abused by a false notion of honour, to serve the king, contrary to the manifest interest of their religion and country. These two letters had a wonderful effect upon officers, soldiers, and seamen; so that from this time many of them resolved not to draw their swords in this quarrel, till they had a free parliament to secure their religion and liberties.

The king's fleet consisted of sixty-one men of war, of which thirty-eight were of the line of battle. Several English authors venture to affirm, this fleet was more than sufficient to defeat that of the States. I know not upon what their assertion is grounded: but it seems to me, it is as likely, that in case the fleets had engaged, the king's would have shared the danger. While the English fleet lay at anchor at the Gunfleet, the lord Dartmouth, the admiral, called a council of war, wherein it was debated, whether it was proper to put to sea, and engage the enemy? An author who has writ the naval transactions of the English, says on this occasion, "That this proposal carried the greatest weight with it, had there been a real design of obstructing the prince of Orange in his passage to England. But instead of that, (continues he) matters were so concerted and agreed among the flag-officers and commanders, that had the admiral come fairly up with the Dutch, it would not have been in his power to have done them much damage." Wherefore, by a great majority, it was resolved to continue there, in order to intercept the Dutch fleet.

The king's fleet ill affected to him. *Burchett*, p. 414. *Burnet.* p. 783. *Burchett*, p. 414.

The damage sustained by the prince's fleet in the late storm was so inconsiderable, and so easily repaired, that in eleven second time.

James II. eleven days it was in condition to put to sea again. The first of November, in the afternoon, the prince embarked on a new vessel called the Brill, and the fleet at first steering northward, it was thought the design was to land somewhere in the north of England, and Burnet says, the first scheme was to anchor in the mouth of the Humber. But during the night, whether the prince had changed his mind, or was hindered from pursuing this course by a violent east wind, all the fleet steered towards the eastern coasts of England; after which they shortened sail for fear of accidents in the night. The next morning the fleet sailed towards the Channel, without meeting any English ship, and in their passage discovered the coasts of Essex and Kent. The 3d of November, the fleet entered the Channel (c), and lay between Calais and Dover, to stay for the ships that were behind. Here the prince called a council of war. It is easy to imagine, what a glorious show the fleet made. Five or six hundred ships in so narrow a channel, and both the English and French shores covered with numberless spectators, are no common sight. For my part, who was then on board the fleet, I own it struck me extremely.

Burnet.  
p. 787.  
Echard,  
III. p. 906.

The king, upon advice of the prince's design to land in the north, had sent part of his army that way. But it was with the utmost surprize that he received several expresses, with the news that the enemy's fleet was sailing westward. He however flattered himself that the lord Dartmouth would pursue and give a good account of them. But, for what reason I know not, the English fleet remained in their station, till the enemy's ships had passed by (d).

Burnet,  
p. 787.  
State Tracts  
T. I. p. 58.

The fourth of November being Sunday, and the prince's birth-day, now thirty-eight years of age, was by him dedicated to devotion, the fleet still continuing their course, in order to land at Dartmouth or Torbay. But in the night, whether by the violence of the wind, or the negligence of the pilot (e), the fleet was carried beyond the desired ports, without a possibility of putting back, such was the fury of the wind. This accident gave them the melancholy prospect of being forced to sail on to Falmouth, or some other inconvenient place. But soon after, the wind turned to the

(c) They passed by the Gunfleet in a very foggy day; while the English could not, by reason of the violence of the wind, purchase their anchors. Burchett, p. 414.

(d) The lord Dartmouth was kept

in by the easterly winds. Burnet, p. 787.

(e) It being a hazy foggy morning, and full of rain, they over-shot Torbay. Hist. of Desart. p. 58.



south, which happily carried the fleet into Torbay, the most convenient place for landing the horse of any in England. 1688. James II.

The forces were landed with such diligence and tranquility, that the whole army was on shore before night. The next morning, the wind turning west, blew so tempestuously, that had the landing been deferred a few hours, probably, it would not have been possible to disembark the troops. This wind prevented the lord Dartmouth, who was come in sight of the Dutch fleet, from attacking it, and obliged him to go into Portsmouth. Upon this occasion these two famous verses of Claudian were applied to the prince of Orange : Lands at Torbay. Burnet. p. 788, 789. Idem, 790.

“ O nimium dilecte Deo, cui militat æther,

“ Et conjurati veniunt ad classica venti.”

Heaven's Favourite! to whom the skies assistance lend,  
Whilst on thy sails conspiring winds attend.

It was thus, the prince of Orange landed in England, without any opposition, the 5th of November, whilst the English were celebrating the memory of their deliverance from the Powder-plot, about fourscore years before. This is one of the most remarkable æras in the English history, and which probably will never be forgot by that nation.

The prince's army marched from Torbay about noon the next day, in very rainy weather and bad roads. The soldiers, before they landed, were ordered to bring three days bread with them, and they carried the tents themselves. But the officers, even the most considerable, were in a very uneasy situation, at their first encampment, being wet to the skin, and having neither clothes for change, nor bread, nor horses, nor servants, nor other bed than the earth all drenched with rain, their baggage being yet in the ships. Had this situation lasted two days more, the officers, as well principal as subaltern, would have been reduced to great extremities. But the prince did all that was in his power to procure them refreshment. He ordered horses, carriages, and provisions from the neighbouring country, and in this state pursued his march to Exeter, about twenty miles from Torbay. The prince marches to Exeter. Ibid.

As soon as the king heard the prince was landed, his first care was to order his army to rendezvous in some convenient place. He chose Salisbury-Plain, whether his army repaired from several parts; with all possible diligence. They who have said that he ought to have marched directly to Torbay plain. The king orders his army to gather on Salisbury plain.

James II. at the head of his army, did not consider, that the thing was impracticable. The greatest part of his army was as yet dispersed in different quarters. Part had marched to the north, and part to Portsmouth to secure that place; which was of great consequence. The Irish forces were still in and about Chester, and the Scotch at Carlisle. The king, when he quitted London, could not avoid leaving there a good body of troops, unless he would have hazarded the seeing that powerful city, where he was not beloved, declare for the enemy. But it is strange, that the king, though he had two months notice of the prince's intended invasion, had neglected to form a camp of twenty thousand men in the heart of the kingdom, to be ready to march against him on the first news of his landing. This was a precaution taken by some of his predecessors on the like occasion, when they expected a descent without knowing in what place, and which might have served him for an example. His negligence therefore seems inexcusable, since, after the prince's arrival at Torbay, he was obliged to lose so much time in assembling his army of more than thirty thousand men. Very probably, if his forces had been ready, and he had marched into the west, the prince would have been extremely embarrassed, who stayed ten days at Exeter, without any great increase of his army. Had he shown so much firmness as Richard III, on the like occasion, he would doubtless have prevented the desertion of numbers, who perhaps were not yet determined to abandon him, and only resolved it because they saw in his conduct a consternation which to them seemed ominous. But this is all conjecture.

The king shows some resolution.

Nov. 17.  
Gazettes,  
No. 2397.  
State Tracts  
T. I. p. 59.  
Echard.  
III. p. 909.

However, the king having sent a reinforcement to Portsmouth under the duke of Berwick, vainly amused himself with endeavouring to persuade the people, that the prince's forces were too contemptible to inspire him with fear. He printed a list of all the regiments of the prince's army, with the companies, troops, officers and soldiers belonging to each (a). But the prince's declaration was more relied on than this list, wherein it was said, he would not have come with so small a number of troops, had a conquest of England been intended; from whence it was inferred, that he was assured of assistance, which would appear in due time.

(a) According to that list, the prince's foot forces consisted of ten thousand six hundred and ninety-two; his horse, of three thousand six hundred and sixty; and his fleet of six hundred and thirty-five vessels. Gazettes, No. 2397.



The king affected to express a great confidence, as being superior in number of forces. The better to show he was incapable of fear, hearing that the counties of Kent and York, and the city of London, were preparing to address him for an accommodation with the prince of Orange, he publicly declared, "That he would look upon all those as his enemies, who should pretend to advise him to treat with the invader of his kingdoms." At the same time, he published a declaration, endeavouring to demonstrate, that the prince's secret design was to usurp the crown. But for such a declaration to have any effect, it must have come from a prince believed innocent, and unjustly attacked. But the people were far from this belief. They rather looked on the king as intending to subvert their religion and liberty, and on the prince of Orange, as the nation's deliverer.

Mean while, the prince, now at Exeter, found not at first the encouragement that he expected. The bishop, Dr. Lamplugh, on the first news of his landing, posted to court, where he was rewarded with the archbishopric of York, which had been kept long vacant, with intention, as it was thought, to confer it on father Petre, the king's confessor. The Sunday after the prince's arrival at Exeter, Dr. Burnet mounting the pulpit to read his declaration, all the canons and part of the congregation left the church, not to be present at the reading. On the other hand, few came to offer their service to the prince, and the levy of three regiments of foot, for which he had granted commissions (b), went on but slowly. Not but that in general the people of the country were inclined to the prince, and wished well to his undertaking. But the memory of the severities against the duke of Monmouth's adherents, was yet so recent, that every one feared to engage in a like enterprize, the success whereof was uncertain. In short, the prince remained nine days at Exeter, without being joined by any person of distinction. It is even pretended, that in a council of war held at Exeter, he suffered it to be proposed to him to reembark for Holland. But on the tenth day some of the principal gentlemen of the country joined him. Among these was Sir Edward Seymour, by whose advice an association was drawn, and signed by all persons then with the prince, or who afterwards repaired to him. It was likewise sent to

James II.  
1688.

and will hear  
of no accom-  
modation.

Ibid.  
Kennet,  
p. 527.

The prince  
of Orange  
meets with  
but small  
encourage-  
ment at  
Exeter.  
Nov. 9.  
Burnet,  
p. 790.  
Kennet,  
p. 527.  
Echard.  
III. p. 910.

Kennet,  
p. 528.

Is at last  
joined by  
the gentle-  
men of the  
country.  
Burnet,  
p. 792.  
Echard.  
III. p. 912.

(b) To the lord Mordaunt, Sir Echard, Tom. III. p. 611.  
John Guise, and Sir Robert Peyton.

James II. several other parts of the kingdom, and signed by great numbers. It was as follows:

The association.  
State Tracts  
T. I. p. 87.  
Kennet.  
P. 528.

" We whose names are hereunto subscribed, who have now joined with the prince of Orange, for the defence of the protestant religion, and for the maintaining the ancient government, and the laws and liberties of England, Scotland, and Ireland, do engage to Almighty God, to his highness the prince, and to one another, to stick firm to this cause, in the defence of it, and never to depart from it, till our religion, laws, and liberties, are so far secured to us in a free parliament, that they shall no more be in danger of falling into Popery and slavery. And whereas we are engaged in this common cause under the protection of the prince of Orange, by which means his person is exposed to danger, and to the cursed attempts of Papists, and other bloody men; we do therefore solemnly engage to God, and to one another, that if any such attempt be made upon him, we will pursue not only those that make it, but all their adherents, and all that we find in arms against us, with the uttermost severity of a just revenge, to their utter ruin and destruction; and that the execution of any such attempt (which God of his infinite mercy forbid) shall not divert us from prosecuting this cause which we do now undertake, but that it shall engage us to carry it on with all the rigour that so barbarous an attempt shall deserve."

The prince marches to Salisbury.

Great desertions in the king's army  
Kennet.  
P. 528.  
Echard,  
III. p. 913.  
Gazettes.  
No. 2400.

From this time the face of the prince of Orange's affairs, who left Exeter to march to Salisbury, was entirely changed. Every day brought him persons distinguished by their birth, estates, or employments. The lord Colchester, son to earl Rivers, a lieutenant in the life-guards, waited upon the prince, accompanied by Mr. Wharton, colonel Godfrey, John How, Esq; four life-guard-men, and about threescore men more on horseback. These were followed by the earl of Abingdon, captain Clarges, Mr. Ruffel, and others. But what was more material, the lord Cornbury, son to the earl of Clarendon, colonel of dragoons, leaving Salisbury, under pretence of an order from the king, to beat up one of the enemy's advanced posts at Honiton, carried with him his own regiment, and those of horse of Berwick, St. Albans, and Fenwick, and with the major part of them went over to the prince at Exeter.

Some lords arm for the prince.  
Kennet.  
P. 523.

About the same time the lord Delamere took arms in Cheshire, and declared openly for the prince, inviting all his tenants to follow his example. The lord Lovelace was also march-



marching to Exeter, with sixty or seventy horsemen, but James II. passing thro' Cirencester, was made prisoner, by the militia 1688. of the county, after a warm skirmish, in which ten or twelve men were killed on both sides.

On the other hand, the two archbishops, five bishops, the dukes of Grafton and Ormond, the earls of Dorset, Clare, Clarendon, Burlington, Anglesey, and Rochester, the lords Newport, Paget, Chandos, and Ossulston, meeting together in London, drew up a petition, which was signed at the bishop of Rochester's house at Westminster. The intent of it was, to pray the king to call a free parliament, and find some expedient to satisfy the prince of Orange. The petition being delivered, and afterwards printed by the lords for their own vindication, this answer was returned from the king, which was also published: "My lords, what you ask His Answ  
" of me, I most passionately desire; and I promise upon the  
" faith of a king, That I will have a parliament, and such  
" an one as you ask for, as soon as ever the prince of Orange  
" has quitted this realm: for how is it possible a parliament  
" should be free in all its circumstances, as you petition for,  
" while an enemy is in the kingdom, and can make a return  
" of near a hundred voices?" This answer was not satisfactory to the lords, who easily saw, that the king was far from desiring a free parliament, nor would have any but of which he could be master.

Though the king still put on a face of assurance, the desertions in his army made him very uneasy. He knew not what to resolve, in the fear of some conspiracy among the officers to deliver him to the prince of Orange, if he should put himself at the head of the army. This was the reason of his stopping the march of his forces, artillery, and his own equipage. But in a council held on this occasion, it was judged necessary for him to be as soon as possible with his army, in order to keep those firm to their duty who were yet unresolved. He therefore departed the 17th of November, after having recommended the care of the city to the lord-mayor, and in a speech to the officers about him, renewed his promise of calling a parliament as soon as the prince of Orange had quitted the kingdom: he told them, "If they  
" desired any thing more, he was ready to grant it; but that  
" if, after all, any of them was desirous to go over to the  
" prince of Orange, he was willing to grant them passes,  
" and spare them the shame of deserting their lawful sovereign."  
" reign." But at the very time he seemed disposed to give a general satisfaction, he left at Whitehall a counsel composed

State Tracts  
T. I. p. 62.

Others demand of the king a parliament.

Nov. 17.

Ib. p. 63.

Kennet.

p. 529.

Echard.

His Answ

He is afraid of being delivered up to the prince of Orange.

Echard,

III. p. 915.

Prepares to meet the prince.

Kennet.

p. 529.

**James II.** of five lords, all odious to the people, except the lord Godolphin. The other four were, the chancellor Jefferies, the lords Arundel and Bellasis, both known Papists; and the lord Preston, suspected of favouring Popery. It is said, the king designed to leave there also his confessor, father Petre, but the Jesuit chose rather to retire to France.

Arrives at  
Salisbury,

Is taken  
with a bleed-  
ing at the  
nose.

A declara-  
tion of the  
chief offi-  
cers.

Kennet.

p. 529.

Echard.

III. p. 915.

The king arrived the 19th of November at Salisbury, where the officers of his army, who were most devoted to him, paid him their complements, and expressed an abhorrence of lord Cornbury's defection. At his arrival he was seized with a bleeding at the nose, which increased the next day, as he was going to view part of his army, quartered eight miles from Salisbury. On the same, or the following day, most of the chief officers applied themselves to the earl of Feverham their general, desiring him to assure the king, "That upon any occasion they should be ready to spill the last drop of their blood in his service; but yet they could not in conscience fight against a prince, who was come over with no other design, than to procure the calling of a free parliament, for the securing of their religion and liberties." This declaration, at which the king was extremely surprized, showed him that his army, which had been always his principal refuge, could not be relied on. The earl of Feverham, strongly suspecting the lord Churchill (afterwards duke of Marlborough) one of the king's favourites, lieutenant-general, captain of a troop of his life-guards, and gentleman of his bed-chamber, was very earnest with the king to have him secured. But the king, whether he had no such suspicion, or feared it would occasion a mutiny, would not follow his advice. However, the very next day the lord Churchill went over to the prince of Orange, accompanied by the duke of Grafton, colonel Berkley, four or five captains of his own regiment, and some other officers. Father Orleans insinuates, that he had formed a design to deliver the king to the prince of Orange, which was prevented by his majesty's bleeding at the nose, at the time he intended to go and view his troops at Warminster, the most advanced post of his army. But this accusation is groundless, and entirely destroyed by the respectful letter written by that lord to the king, and which I therefore think proper to insert here.

SIR,



James II.  
1688.

“SIR, **S**INCE men are seldom suspected of sincerity, when they act contrary to their interests; and though my dutiful behaviour to your majesty in the worst of times, (for which I acknowledge my poor services much overpaid) may not be sufficient to incline you to a charitable interpretation of my actions; yet, I hope, the great advantage I enjoy under your majesty, which I can never expect in any other change of government, may reasonably convince your majesty, and the world, that I am acted by a higher principle, when I offered that violence to my inclination and interest, as to desert your majesty at a time when your affairs seem to challenge the strictest obedience from all your subjects, much more from one who lies under the greatest personal obligations imaginable to your majesty. This, Sir, could proceed from nothing but the inviolable dictates of my conscience, and a necessary concern for my religion, which no good man can oppose, and with which I am instructed, nothing ought to come in competition. Heaven knows, with what partiality my dutiful opinion of your majesty hath hitherto represented those unhappy designs, which inconsiderate and self-interested men have framed against your majesty's true interest, and the Protestant religion. But as I can no longer join with such, to give a pretence by conquest, to bring them to effect; so I will always, with the hazard of my life and fortune (so much your majesty's due) endeavour to preserve your royal person and lawful rights, with all the tender concern, and dutiful respect that become,”

Yours, &amp;c.

This letter is a clear evidence, that nothing was farther from the lord Churchill's thoughts, than to deliver the king to the prince of Orange.

The lord Churchill's defection quite sunk the king's spirits, who from this time saw not on whom he could rely. So, no longer daring to venture his person with his army, he left Salisbury, and returned to London with a precipitation like a flight. Before his departure he publishes a proclamation, promising a free and absolute pardon to all his subjects, who had taken up arms, and joined with the prince of Orange, provided they quitted and deserted him within the space of twenty days.” But this proclamation had no

His letter to  
the king.  
Hist. of  
Desert.  
p. 82.  
Kennet.  
p. 530.

The king  
returns to  
London.  
Hist. of  
Desert.  
Kennet.  
Offers a  
pardon.  
Gazettes,  
N. 2403.

James II. effect. In his return, he met with a greater mortification, 1688. in the defection of the prince of Denmark his son-in-law, who leaving him at Andover, went off to the prince of Orange, with the duke of Ormond, Sir George Hewet, and others. That prince wrote a very respectful letter to the king, in vindication of his conduct, wherein he grounds his defection chiefly on his concern for the Protestant religion, which the king had openly attempted to destroy, not only in England, but in all Europe, by his strict union with France.

Prince  
George  
leaves him.  
Kennet,  
p. 530.  
Echard.

The prince  
comes to  
Sherburn.  
Kennet,  
p. 530.

Mean time, the prince of Orange having left Exeter, was advanced to Sherburn, from whence it was in his power to march to Salisbury or Bristol, according to the resolutions taken by the king. The king had an army so superior to that of the prince in number, that had he marched directly to the prince, and attacked him, he would, doubtless, have very much distressed him. It is not likely, the prince would have ventured a battle; but on the king's advancing, would probably have retired to Bristol, in expectation of a more general defection in the king's army. Such a defection was justly expected, according to all the advices of those who came to join him. Wherefore, it is very unlikely that he would have risked an advantage, of which he was almost assured, by a battle, the success whereof would have been doubtful. I remember a report then in the prince's army, that the marshal de Schomberg being told, the king was advancing to give battle, the marshal coldly answered, "If we think proper." But upon hearing that the king was returned to London, and his army retired to Reading, the prince marched to Salisbury, and made a public entry into that city, amidst the acclamations of the people. During his march, there was a small skirmish between two parties of the armies, in which that of the prince, though very inferior in number, defended themselves with so much bravery, that the enemy had no reason to boast of the advantage, the loss being almost equal on both sides (c).

and to Sa-  
lisbury.

The king  
mortified  
with a suc-  
cession of ill  
news.  
Echard.  
III. p. 918.  
920.

The defection of his principal officers was not the only cause of the king's mortal fears. Scarce a day passed, but what brought him some disagreeable news from different parts of the kingdom. The earl of Bath had made himself master of Plymouth, where the Dutch fleet lay secure. The

(c) This skirmish was on November 20, at Wincanton, between a detachment of seventy horse and fifty

dragoons and grenadiers of the king's; and twenty-five men of the prince of Orange's. Kennet, p. 530.

earl



earl of Shrewsbury, and Sir John Guise had, with the assistance of the inhabitants, forced the duke of Beaufort to surrender the important city of Bristol. The earl of Devonshire, at the head of a great number of Derbyshire gentlemen, had declared for a free parliament, agreeably to the prince's declaration. The earl of Danby had secured York, and having disarmed and turned out all the Papists, (who, under the protection of the duke of Newcastle, stood up for the king) declared for a free parliament. The town of Berwick soon followed the example of York, and the gentlemen of Nottinghamshire had done the same. Colonel Copley, deputy-governor of Hull, surprized that town, and made the lord Langdale, the Popish governor, prisoner. The duke of Somerset and the earl of Oxford, came to offer their service to the prince of Orange. The duke of Ormond entered Oxford without resistance, and caused the prince's declaration to be read there. In fine, the king heard, that five commissioners from Scotland, among whom were the duke of Queensbury, and the lord of Belcarris, were coming to London, to demand a free parliament in that kingdom. But the king's greatest affliction was, to see himself forsaken by his own daughter, the princess of Denmark, who had privately withdrawn from Whitehall, being attended by the bishop of London, mounted and armed, and retired to Nottingham, from whence she was conducted to the prince her husband at Oxford. Some days before, it was reported, that the queen had treated her very rudely, and proceeded so far as to strike her. This so incensed the people, that as soon as they found she appeared not at Whitehall, they offered to tear all the Romish party in pieces, upon a surmise of her being murdered, or confined, but on the news of her being in safety, they were appeased. At her going off, she writ the following letter to the queen.

James II.  
1688.

Nov. 20.

The princess  
of Denmark  
retires.  
Kennet,  
p. 531.  
Burnet,  
p. 792.  
Echard.  
III. p. 920.

" MADAM,

" I Beg your pardon, if I am so deeply afflicted with the surprizing news of the prince's being gone, as not to be able to see you, but to leave this paper to express my humble duty to the king and your self; and to let you know that I am gone to absent my self, to avoid the king's displeasure, which I am not able to bear, either against the prince or my self; and I shall stay at so great a distance, as not to return before I hear the happy news of a reconciliation. And as I am confident the prince did not leave the king with any other design, than to use all possible means  
" for

The princess  
of Den-  
mark's let-  
ter to the  
queen.  
Kennet,  
p. 351.  
Echard.

James II. " for his preservation ; so I hope, you will do me the justice  
 1688. " to believe, that I am not capable of following him for any  
 " other end. Never was any one in such an unhappy condi-  
 " tion, so divided between duty and affection to a father and  
 " a husband ; therefore I know not what to do, but to follow  
 " one to preserve the other. I see the general falling-off of  
 " the nobility and gentry, who avow to have no other end,  
 " than to prevail with the king to secure their religion, which  
 " they saw so much in danger, by the violent counsels of the  
 " priests ; who, to promote their own religion, did not care  
 " to what danger they exposed the king. I am fully per-  
 " suaded, that the prince of Orange designs the king's safety  
 " and preservation, and hope all things may be composed  
 " without more bloodshed, by calling of a parliament. God  
 " grant a happy end to these trouble, that the king's reign  
 " may be prosperous, and that I may shortly meet you in  
 " perfect peace and safety : till when, let me beg you to  
 " continue the same favourable opinion that you hitherto had  
 " of, Your &c.

King James  
 abused by  
 his counsellors.

From what has been said it appears, that the defection was almost universal, and not confined to the court and the army. It is inconceivable, that the king should not have foreseen it, or should have so ill an opinion of the English, as to think, they would quietly suffer their laws and religion to be destroyed : that he should imagine, the giving a man a commission in his army, and obliging him to take the oath of allegiance, should free him from, or at least, make him forget his duty to God and his country. But it must be remembered, what the princess of Denmark insinuated to the queen, that the kings counsellors cared not to what danger they exposed him. In making him the instrument to execute their designs, they no farther regarded his person, than as it served to establish their religion, in which they could not succeed without rendering him absolute, and James imprudently fell into the snare. Herein may be observed, the difference between Charles II, and James II. The first was always sensible, that the zealous promoters of absolute power intended his grandeur only as a means to accomplish other projects. Wherefore, when he saw himself engaged in very dangerous courses, he forsook them as well as he could, and left his counsellors, his ministers, and even his own brother in the danger. This was his frequent practice, and he thereby bequeathed to the duke his brother, the difficulty and peril of a contrary method. But James II, in pursuing a directly opposite

The differ-  
 ent charac-  
 ter of  
 Charles II,  
 and James II.



posite course to that of Charles, gave himself up entirely to James II. the counsels of those, who, to attain their own ends, regarded not to what danger they exposed him by their violent proceedings. 1688.

Be this as it will, the king, at the time I am speaking of, was plunged in a gulph of difficulties, without perceiving any way to escape. The queen was dismayed, and her consternation inexpressible. Father Petre was retired into France, under the protection of the lord Waldgrave, sent thither in the room of Skelton. The violent counsels of Jefferies were now unseasonable. The Popish counsellors, seeing all their measures broken, took care to shelter themselves from the impending storm, to which they left the king exposed. In short, Mr. Barillon the French ambassador, and Monsieur de Lauzun, then in London, vented themselves in fruitless reproaches on the king, for refusing the assistance offered by France, without directing him how to repair that error. In this extreme distress (more easy to be imagined than described) his sole refuge was to turn to the Protestant peers, whose counsels he had before rejected, whom he had deprived of their employments, and, in a word, treated as enemies. He therefore assembled all the peers, spiritual and temporal, that were in London. The number indeed was but small, there being many with the prince of Orange, or in several parts of the kingdom for his service. When they were met, he prayed their advice concerning the present exigencies. On this occasion, he had the mortification to hear a long enumeration of all his unwarrantable proceedings, since his accession to the throne, and particularly his violent measures to destroy the Protestant religion, and subvert the liberties of England. These, it was said, had occasioned the dangerous symptoms that now appeared in the body politic, and for which there was no other remedy than a free parliament. The necessity therefore was represented to his majesty, 1. Of granting a general pardon to all those who either came over with the prince of Orange, or had joined him since his landing. 2. Of deputing some lords to his highness, to treat with him about a suspension of arms, and to endeavour to bring matters to an accommodation. And lastly, Of turning all Papists immediately out of their employments, to convince the world, that his majesty acted with sincerity.

The king took that night to consider of the advice, and the next day declared in council, that he was resolved to call a free parliament, that should meet the 15th of January next ensuing. Accordingly, the chancellor was ordered to issue

The king in great difficulties. Kennet, p. 529.

Consults the Protestant peers. Kennet. p. 531. Echard. III. p. 921. Burnet, p. 794.

Their advice.

The king declares he will call a free parliament.

out

James II. out the writs. Then he published a proclamation in which  
1688. he declared, that all his subjects should have free liberty to

Kennet,  
p. 531.  
A proclama-  
tion for that  
purpose,  
Nov. 30.  
Gazettes,  
No. 2406.  
Nov. 26.

elect, and all the peers, and such as should be elected mem-  
bers of the house of commons, should have full liberty and  
freedom to serve and sit in parliament, notwithstanding they  
had taken up arms, or committed any act of hostility, or been  
any way aiding or assisting therein. He likewise declared  
in council his intention of sending commissioners to treat with  
the prince of Orange : but as to that part of the advice rela-  
ting to the Roman Catholics, his majesty only said, " He  
" would leave that matter to be debated in parliament." However, Sir Edward Hales, a Papist, and lieutenant of the  
Tower, having been obnoxious to the city of London, by  
threatening to bombard it, was displaced, and colonel Skel-  
ton put in his room.

Commis-  
sioners sent  
to treat with  
the prince  
of Orange.

The commissioners nominated by the king to treat with  
the prince of Orange, were the marquis of Hallifax, the earl  
of Nottingham, and the lord Godolphin. They left London  
the second of December, and on their way met with passes  
from the prince.

A false de-  
claration  
published in  
the name of  
the prince of  
Orange.  
State Tracts,  
T. I. p. 84.  
Echard,  
p. 922.

At the same time appeared a printed paper at London and  
other places, called, " The Third Declaration of the prince  
" of Orange," dated the 28th of November. It was penn'd  
by a private, and still unknown hand, who had the boldness  
to put the prince's name to it, and disperse it thro' the king-  
dom (a). Amongst other things he made the prince say,  
That as he would offer no violence to any but in his own ne-  
cessary defence, so he would not suffer any injury to be done  
to the person, even of any Papist, provided he was found in  
such place, and condition, and circumstance, as the law re-  
quired. But he declared, that all Papists, who should be  
found in open arms, or in any office civil or military, con-  
trary to the known laws of the land, should be treated by  
him and his forces, not as gentlemen and soldiers, but as rob-  
bers, free-booters, and banditti's; so should all persons found  
any ways aiding or assisting to them : That whereas he was  
certainly informed, that great numbers of armed Papists had  
of late resorted to London and Westminster, and parts adja-  
cent, not so much, he had reason to suspect, for their own  
security, as out of a wicked design to make some desperate at-  
tempt upon the said cities and their inhabitants, he therefore  
required all magistrates and officers, civil and military, to dis-

(a) Hugh Speke has owned himself the author of it: Secret Hist. of the  
Revolut.



arm and secure them, that all power of doing mischief might be taken from them : That those majestates or others, who should refuse to assist him, to execute vigorously what he required of them, should be esteemed the most criminal and infamous of all men; betrayers of their religion, laws, and country, of whom he would require the life of every single Protestant that should perish, and every house that should be burnt or destroyed, by their treachery and cowardice.

This declaration, published in the prince's name, though it was disowned by him, finished the confusion of the Papists; and the more, as several justices of peace caused it to be published, not imagining that any private man would have had the boldness to undertake such a thing. From this time the Popish party were reduced so low, that they durst not hold up their heads. "An Hue and Cry after Father Petre," was publicly cried and sold in the streets, notwithstanding he was privy-counsellor. A legal accusation against the earl of Salisbury, "For infringing the most sacred laws of the kingdom by turning Papist," was preferred to the grand jury of Middlesex, who found the bill.

The 6th of December the three commissioners by an express acquainted the king, "That they were to meet the prince of Orange that night at Amesbury." But the next day they informed his majesty, "That his highness had made a new appointment to meet them at Hungerford, and had sent to them the earls of Clarendon and Oxford, to desire them to make their proposals in writing." This message surprized the king, chiefly because the prince had deputed the earl of Oxford, who had never been concerned in any public affair, and the earl of Clarendon was mortal enemy of the marquis of Halifax. He inferred from thence, the prince's unwillingness to come to any accommodation. For this cause, Barillon and Laufun earnestly pressed the king, to secure himself, the queen, and the prince of Wales, by a timely recess from the nation. But he was willing still to wait for the success of the negotiation with the prince of Orange.

The substance of the proposals delivered by the king's commissioners to the prince was, "That the king observing that all the causes of complaint, alledged by his highness, seemed to be referred to a free parliament, he had issued his writs for calling one (b). That he had sent commis-

(b) He had indeed called a parliament, but the writs were not yet sent down. Rapin.

Echard.  
III. p. 924.

The Popish  
party sinks  
entirely.  
Id. p. 925.  
Kennet,  
p. 532.  
Ibid.

The king's  
propositions  
to the  
prince.  
StateTracts,  
T. I. p. 86.  
Kennet,  
p. 534.  
Echard.  
III. p. 926.

James II. 1688. " sioners to his highness for adjusting all matters relating to  
 " the freedom of elections, and security of the parliament;  
 " and, in order to that, proposed, that the respective armies  
 " might be kept at such a distance from London."

The prince, who was then marching towards London, returned no answer to these proposals, but the next day, with the advice of the lords and gentlemen assembled with him, he put the following propositions into the hands of the king's commissioners.

The prince's  
 proposals.

" I. That all Papists, and all such persons as are not qualified by law, be disarmed, disbanded, and removed from all employments, civil and military.

" II. That all proclamations that reflect upon us be recalled; and that if any persons, for having assisted us, have been committed, that they be forthwith set at liberty.

" III. That for the security and safety of the city of London, the custody and government of the Tower, be immediately put into the hands of the city.

" IV. That if his Majesty shall think fit to be in London, during the sitting of the parliament, that we may be there also, with equal number of guards: and if his majesty shall please to be in any place from London, whatever distance he thinks fit, that we may be at a place of the same distance; and that the respective armies be from London thirty miles; and that no further forces be brought into the kingdom.

" V. That for the security of the city of London, and their trade, Tilbury fort be put into the hands of the said city.

" VI. That a sufficient part of the public revenue be assigned to us, for the support and maintenance of our troops, until the fitting of a free parliament.

" VII. That to prevent the landing of the French, or other foreign troops, Portsmouth may be put into such hands, as by his majesty and us shall be agreed on."

Their mode-  
 ration  
 owned by  
 the king.

State Tracts.  
 T. I. p. 87.  
 Echard,

III. p. 924.

These proposals were so reasonable, that the king himself could not help owning, " They were better than he expected." Indeed, the prince of Orange ever adhered to his declaration, in which he only demanded entire freedom for the parliament, and a sufficient security for the city of London, without stipulating any other advantage for himself than the maintenance of his army, till the sitting of the parliament, for about six weeks. As the king could no longer hope to execute his first designs, it seems that nothing could be more advantageous to him in his present situation, deserted by all,  
 and



and not knowing which way to turn, than to be freed from James II. his difficulties, by restoring things to their ancient and natural state. Had he discovered a willingness to embrace these proposals, probably, the parliament would have asked no more of him, than the establishment of their religion and laws, so as not to be easily shaken, and he might have kept his crown, though perhaps with some diminution of the rights claimed by himself, his brother, father, and grandfather. This cannot be said to be a hard condition, considering how he had governed, and the present situation of his affairs. He even seemed at first disposed to accept these proposals, and refer to the next parliament the decision of all differences, since that very day he called an extraordinary council of all the lords that were in town. As it was plain, he would be advised to accept the proposals by all the lords, it could hardly be doubted, that he had such an intention, and only called the council for form-sake. It is not known what passed in it, but only that the same council was ordered to meet the next morning, to give their farther advice upon the exigency of affairs. Before the council broke up, the King, addressing himself to the duke of Bedford, said, "My lord, you are a good man, and have a great influence: you can do much for me at this time." To which the duke replied, "I am an old man, and can do but little;" then added with a deep sigh, "I had once a son, that could now have been very serviceable to your majesty." This was meant of the lord Russel, beheaded in the late reign, who was sacrificed to the vengeance of the king, then duke of York. The king was struck dumb with this answer, so that he could make no reply.

Who calls  
an extraor-  
dinary  
council.  
Echard.  
III. p. 927.

Which is  
ordered to  
meet the  
next day.

Every thing seemed to promise an accommodation, and it was not doubted, but the next day some resolution would be taken for the peace and security of the kingdom. But that same night the king, as 'tis supposed, consulted with some of his Popish counsellors, whose interested advice overthrew all these flattering expectations. These counsellors easily perceived, what they were to expect from a free parliament. It was manifest, nothing could free the king from his present difficulties, but the delivering up the Popish religion to the resentments of the Protestants, and the passing such acts as would hinder its being ever established in England. They therefore thought it more advantageous to their religion, that the king should preserve all his pretensions, though unable to support them, than sacrifice them to the parliament. To that end, they advised him to withdraw into France. They repre-

The king  
suffers him-  
self to be  
gained by  
his Popish  
counsellors.  
Echard.  
III. p. 927.  
Burnet,  
p. 795.

James II. represented, how dishonourable it would be to retract what he  
1688. had done, how prejudicial to the Catholic religion, to be forced to give his assent to such acts of parliament as would tend

who are assisted by the queen.  
Burnet,  
p. 795.

She resolves to go into France.  
Kennet,  
p. 532.

and accordingly goes.  
Orleans.  
Echard.  
III. p. 928.

The king follows her.

only to render its establishment impracticable. That the Catholics would be entirely destitute of any resource, whereas by preserving his rights, he might hope to be restored by the arms of France, and finish the work so gloriously begun. In a word, by this interested counsel, they clearly discovered, if the king had been willing or able to perceive it, that not his person, but their religion was the sole object of their concern.

In fine, to give more weight to their reasons, they instilled into the queen such apprehensions, as made her use all her influence with the king, to engage him to do as he was advised. They told her, the parliament would be far from being favourable to the king and herself: that being both suspected, and even openly accused in the prince of Orange's declaration, of imposing an heir upon the crown, it was very apparent, the parliament, to favour the princess of Orange, would declare the prince of Wales supposititious: that perhaps she herself would be accused for the fact, since it was not scrupled to impeach the queen, her mother-in-law, for matters much less important: that a short exile with a powerful and generous prince, who was able to restore them, was preferable to living in their own kingdom, with only the shadow of sovereignty, in dishonour, indigence, and in dependence upon those whom they ought to command. These considerations, supported, as it is pretended, by Barillon and Lausun, made such an impression upon the queen, that she resolved to retire into France with the prince of Wales, after a positive promise from the king, that he would follow her with all convenient speed.

Pursuant to this resolution, in the night between the 9th and 10th of December, the queen in disguise crossed the Thames to Lambeth in an open boat, exposed to wind and rain. At Lambeth, under the walls of a church, she waited till a coach could be got ready in the next inn. She went from thence to Gravesend, where she embarked with the prince of Wales on a small vessel, which conveyed them safely to Calais. From thence she went to Versailles, where she was received by the king of France with great marks of affection, which was some alleviation to her melancholy situation.

The king being fully determined to follow the queen, waited but one day to execute his design. The night between the 10th and 11th of December, in a plain suit, and a bob wig, he took water at Whitehall, accompanied only by

Sir



Sir Edward Hales, Mr. Sheldon, and Abbadie a Frenchman, James II. page of the back-stairs, without acquainting any other with 1688.

his intention. If the manner in which this monarch intended to leave his dominions is impartially considered, it will hardly be denied, that this was an entire desertion of them, and a putting of his subjects into the state in which nature dictates to men, to provide for their own safety. First, he fled without being pursued, and without any cause to fear, either for his life or liberty. So that it is manifest, his conscience suggested evils to him, which were never intended. Secondly, He fled without any provision for the government of the kingdom. From this conduct it was afterwards inferred, that he abandoned his subjects in a perfect anarchy, and thereby authorized them to chuse what form of government they pleased, or to elect another king. Thirdly, by his flight he violated the promise so solemnly made in his proclamation of calling a parliament. Fourthly, before he went off, he writ to the earl of Feversham to disband the army, without any care of their pay, probably, on purpose to cause disturbances in the kingdom, by the discontents of the officers and soldiers. Fifthly, he ordered all the writs to be burnt, that were not sent out, for electing the parliament, imagining, doubtless, that after his departure, it would not be possible to assemble a parliament, which by the laws could only be called by the king. Sixthly, when he took water, he threw the great-seal into the Thames, that nothing might be legally done in his absence. If this may not be called a real desertion of his kingdom, it will be difficult to give a name to such proceedings.

Hist. of Desert. p. 88.  
Echard.  
III. p. 928.  
Burnet.  
A remark upon his conduct,

Kennet,  
P. 532.  
Echard.  
III. p. 929.  
Burnet,  
P. 796.

As soon as the king's flight was known, a general consternation ensued, most people being ignorant how they were to behave on so extraordinary an occasion. However, about thirty spiritual and temporal lords met at Guild-hall, and sent for the lord-mayor and aldermen. After a short consultation, it was resolved, to adhere to the prince of Orange, and send deputies to him, with this resolution signed by the whole assembly. Then they sent for colonel Skelton, lieutenant of the Tower, of whom they demanded the keys, which he willingly resigning, they were given to the lord Lucas. Presently after, the common-council of the city sent deputies (a) to the prince, with an address, imploring his protection, and praying him to honour the city with his presence.

The lords in the town meet at Guild-hall. Decem. 11. Kennet, P. 533. Echard. III. p. 930. Hist. of Desert. p. 88. The prince sent to by them and the common-council.

(a) Sir Robert Clayton, Sir Basil Firebrace, Sir William Russell, and Charles Duncomb, Esq; Kennet, p. 534.

**James II.** Though, upon the king's flight, the militia of London and **1688.** Westminster were immediately up in arms, they could not prevent the mob from assembling and committing some disorders. They confined their rage chiefly to the mass-houses erected by the king in the city and suburbs, which they demolished entirely, and made bonfires with the materials. And as there were also chapels in the houses of Ambassadors, those of the Spanish and Florentine ambassadors were rifled, before a stop could be put to the disorder. In the first of these chapels the principal court-Papists had conveyed all their valuable effects, and this probably was the chief cause of the pillage. The houses of the other ambassadors were preserved, by the great care of some lords. The two ministers of Spain and Florence were afterwards largely recompensed for their losses (b).

An insur-  
rection of  
the mob.  
Echard.  
III. p. 932.

Chancel-  
lor Jefferies  
seized and  
ill used by  
the rabble.  
Dec. 12.  
Ibid.  
Kennet,  
p. 535.  
Sent to the  
Tower,

where he  
dies.

The earl of  
Feversham  
disbands his  
army.  
Kennet,  
p. 534.  
Echard.  
III. p. 933.

During these disorders of the mob, chancellor Jefferies, disguised in a seaman's habit, in order to escape in a vessel freighted for Hamburgh, was discovered (c) as he was looking out of the window of the house where he had concealed himself. He was immediately seized by the mob, and, after many indignities put upon him, carried before the lord-mayor, who declined meddling with him. But the chancellor seeing himself in the hands of an enraged mob, which threatened to tear him in pieces, desired that he might be sent to the Tower, which at last was granted him, not as a favour, but in hopes of seeing him shortly conducted from thence to the gallows. It is pretended, he offered to discover many secrets, and for that reason, was kept some time in prison, till the affairs of the government should be settled. But he died in that interval, by the blows he had received, according to some; by drinking spirituous liquors, according to others; and as some pretend, of the stone. Never man had better deserved a public punishment, as an atonement for all the mischiefs done to his country, and for all the blood spilt by his means.

Mean time, the earl of Feversham, after having communicated the king's letter to the principal officers, dismissed the army, and gave notice of it by a trumpet to the prince of Orange, who returned no answer. This made it thought the prince did not approve of his conduct. And indeed it seems, that in such a juncture, if he was unwilling to pay too much deference to the prince, as to communicate to him the order

(b) The Spanish ambassador had seventy thousand pounds for his losses. Buckingham's Account of the Revolution, p. 16.

(c) By a clerk in chancery, that accidentally passed by. Kennet, p. 535.



before it was executed, he should not have done it, at least without the advice of the lords assembled at London, who in the present state of the kingdom had a right to interpose in the government. Accordingly, his conduct was greatly blamed; and this fault was the more taken notice of, as it occasioned an alarm which threw the city and country into the utmost consternation. Some Irish soldiers of the disbanded troops, finding themselves moneyless, and incapable of subsisting in a country where they were so generally hated, resolved to keep themselves from starving, by forcibly entering a country-house. Whereupon a man of the neighbourhood runs directly to London, crying, as he passed, "That the Irish were up, and marching to London, firing of houses, and putting man, woman, and child, to the sword." The news immediately flew through the city, and caused a strange panic fear. This report, as it went along, so gathered, that the terror was increased. The city was in alarm all night, expecting every moment the arrival of the Irish. Some prepared for flight, others ran to arms, not a window in London and Westminster, but what was illuminated. From London the consternation spread through the whole kingdom, so that in the remote parts, where people had more time to consider what was to be done, a resolution was taken, in case the news should be true, of destroying all the Irish, and Papists in England. Happily this terror vanished in London as soon as the real cause of it was known.

Mean time, the prince of Orange being advanced as far as Henley, and fearing the disorders which might be committed by a disbanded army, published a short declaration, requiring all colonels to call together the several officers and soldiers of their respective regiments, in such places as they should think convenient, and there to keep them in good order and discipline, till farther orders. This declaration was followed by another of the lords assembled at London, to the same effect, with an additional promise of subsistence, till they should be otherwise provided for, to all officers and soldiers who should obey, and deliver up their arms to persons appointed to receive them. Besides this, all magistrates were required to apprehend, and seize, all such soldiers as should not repair to their respective bodies, and to deal with them as vagabonds.

All these things were transacted, in the belief, that the king had left the nation; and indeed he was gone from Whitehall with that intention. He was got as far as a little place near Feversham, and had even embarked in a small ves-

A panic terror seizes London, and from thence is spread thro' the whole kingdom. Hist. of Desert. P. 91.

The prince of Orange re-assembles the king's army. Dec. 13. Kennet, P. 535. Echard. III. p. 934. The lords pursue the same design.

The king arrested, and abused by the rabble at Feversham.

James II. set that was to carry him to a frigate, ready to transport him to France. This vessel, not being able to sail immediately, by reason of a tempestuous wind, Sir Edward Hales, one of the king's attendants, sent his footman to the post-office at Feversham. His livery was known by a man, who told some others, that Sir Edward was not far off. The footman was followed to the river-side, and seen to make signs to some people on board a bark; whereupon the fishermen, and other persons of Feversham, immediately boarded the vessel where the king was. Sir Edward was soon known, and the king being taken for his chaplain, had many indignities put upon him. Then, searching him, they found four hundred guineas, and several valuable seals and jewels, which they took from him. Amongst the people who crowded into the ship, there happened to be a constable who knew the king, and throwing himself at his feet, begged him to forgive the rudeness of the mob, and ordered restitution to be made of what had been taken from him. The king received the jewels and the seals, but gave the four hundred guineas among them. After this, he desired to be gone, but the people, by a sort of violence conducted him to a public inn in the town. Here he sent for the earl of Winchelsea, lord-lieutenant of the county, who prevailed with him not to leave the kingdom, but to return towards London.

Kennet,  
p. 535.  
Burnet,  
p. 796.

Returns to  
London:  
Kennet,  
p. 536.  
Echard.  
III. p. 935.  
Burnet,  
p. 799.

This news being brought to London, produced various effects. Some wished the king had never been stopt, others were glad of an opportunity to convince him, there was never any ill design against his person. The lords and the magistrates of London, who had made such advances towards the prince of Orange, were confounded at their haste, and were under some fear, in case the state of affairs should be altered. At last, the lords assembling, thought proper to appoint four of their body (d) to wait on the king, with an invitation to return to Whitehall, and with assurances of being received with all due respect; and coaches were immediately sent to bring him. At the same time, an express was dispatched to the prince of Orange, to acquaint him that the king was still in the nation. The prince, who was come as far as Windsor, was not a little surprized at the news. He was marching to London to settle with the lords, by whom he was expected, the affairs of the nation, in the supposition that the king had left it. But his majesty's return threw the prince

(d) The earls of Middleton, Aylesbury, Yarmouth, and Feversham. Kennet, p. 536.



into great perplexity, and of course would oblige him to take James II. other measures. Nevertheless, as the king had no army, and 1688. by his hasty flight, had entirely forfeited the confidence of all his friends, and the esteem of his enemies, as he was not in a condition to command, but in some measure depended upon others, the prince dispatched Monsieur Zuylestein to him, to desire him to remain at Rochester, till it could be agreed what was to be done. But Zuylestein missing his way, the king came to London the 16th of December, about four in the afternoon, where he was received with acclamations as if he had been returning from victory.

The king being restored to his palace, and in some manner to his deserted royalty, discovered an inclination to resume his old measures, and still brave the Protestants. In all appearance, the acclamations as he passed through London, had revived his courage, and put him in hopes of a general declaration in his favour. The first thing he did was to publish an order of council, wherein he said, That being given to understand, that divers outrages had been committed in several parts of the kingdom, by burning, pulling down, and defacing of houses, he commanded all lord-lieutenants, &c. to prevent such outrages for the future, and suppress all riotous assemblies. This was his last public act, which crowned so many others done in his reign, in favour of the Papists. Moreover, he discharged Leiburn, a Popish bishop, who had been sent to Newgate, and during his short stay at Whitehall, was surrounded, as formerly, with priests, Jesuits, and Irishmen.

The king, in his journey to London, dispatched the earl of Feverham with a letter to the prince, "Kindly to invite him to the palace at St. James's, with what number of guards and troops he should think convenient to bring along with him, that they might amicably and personally confer together about the means of redressing the public grievances."

The prince returned no answer. But the moment the earl of Feverham was out of his presence, Monsieur Bentinck demanded his sword, and told him, he had orders to secure him. This doubtless was owing to his precipitate disbanding the army. Some indeed have thought it was only a pretence to remove him from the king's person, being suspected of giving him ill advice, or perhaps, because he was too much devoted to him, though he ever professed the Protestant religion.

In a Council held by the prince, and the English lords who were with him, it was resolved, "That the royal palace at

His last act  
of royalty.  
Kennet,  
p. 536.  
Echard.  
III. p. 935,  
936.

The earl of  
Feverham  
sent by the  
king to the  
prince, is  
arrested.  
StateTracts,  
T. I. p. 92.  
Kennet,  
p. 536.  
Echard,  
III. p. 936,

James II. 1688. "Whitehall, being still crouded with Irish Papists, priests, and Jesuits, his highness could not with ease and safety remain at St. James's, where he must necessarily go the next day, without his Majesty and his Popish guards were removed within a reasonable distance from London." Moreover, an accident which happened two days before, provoked those who were concerned for the prince's life. The duke of Grafton marching through the Strand at the head of a regiment, to take Tilbury fort out of the hands of the Irish, an Irish officer riding up to him, fired a pistol at him; for which he was shot dead upon the place. Much more might such an attempt be apprehended against the prince, from some of the king's guards. In the debate, it was proposed to send the king prisoner to Breda. But the prince of Orange rejected the proposal with indignation, protesting, That he could not consent to put him under any restraint. At last, since the prince's presence at London was absolutely necessary, it was agreed, that the king should be desired to remove to Ham, a house belonging to the duchess of Lauderdale. It appears from hence, that the king's approbation was no longer considered as absolutely necessary to settle the affairs of the kingdom. And indeed it seems, that since he would have abandoned all, he had no right to pretend to any thing. Pursuant to this resolution, the prince of Orange signed an order, directed to the marquis of Hallifax, the earl of Shrewsbury, and the lord Delamere, to acquaint the king with it, and to tell him, he should be attended by his guards, to preserve him from any disturbances.

Burnet,  
p. 800.

Three lords  
sent by the  
prince to  
the king.  
Dec. 17.

The Dutch  
guards take  
possession of  
Whitehall  
and St.  
James's.  
StateTracts,  
T. I. p. 93.  
Kennet,  
p. 537.  
Echard.  
III. p. 937.

Immediately after, the prince ordered the regiment of his guards, consisting of three battalions, to march and take possession of all the posts about Whitehall and St. James's, either by persuasion or force. The king being informed of it, sent for count Solms who commanded these guards, and desired him, "If it could be, to let him have his own guard at Whitehall, only for that night," but the count alledging his order, "to relieve all the posts," the king answered, "do your office." At ten a clock at night, the Dutch blue guards entered St. James's house, and towards eleven, those who were ordered to Whitehall, moved through the Park, and with lighted match, and in order of battle, marched up to the king's guards. The captain of the guards scrupling to dislodge, at last received the king's orders to retire. After this, the Dutch took possession of the guard-house, and at the same time relieved all the posts about Whitehall and the Park, placing every where double centries. So that, during the rest



rest of the night, the king was really in the power of the prince of Orange. An hour after midnight, the three lords appointed by the prince came to Whitehall, and sent to awake the king for an audience. The king ordering them to come to his bedside, they delivered the prince's message, which was to desire his majesty's departure to Ham; to which the king consented; but after they were withdrawn, he ordered them to be recalled, and bid them tell the prince, that he desired rather to go to Rochester, according to the prince's message by Zuylestein, to which the prince consented that very night. His answer coming to the king at eight in the morning, the king about noon took a barge, attended by the earls of Aylesbury, Litchfield, Arran, and Dumbarton, six of the yeomen of his guard, and about a hundred of the Dutch guards, commanded by the lieutenant-colonel of the regiment. About nine at night he arrived at Gravesend, where he found his own coaches, and some troops of the militia, by whom he was the next day conducted to Rochester..

James II.  
1688.  
The king desired by the prince to remove to Ham, makes choice of Rochester.

The prince arrived at London the same day the King left Whitehall, and lodged at St. James's, where he received the compliments of the nobility, the lord-mayor, aldermen, and common-council of the city of London. From this time it may be said, the king was a mere cypher. He was not a prisoner, but had no power left of doing good or hurt, so that most of the lords who had any employments at court, laid down the badges of their offices, as the staff, the key, &c. as believing they had no longer any right to exercise the same.

The prince of Orange arrives at St. James's, Dec. 18. Kennet, P. 537. Echard. III. p. 938.

During the rejoicings at London for the prince's arrival, the mob insulted the Papists again, not excepting ambassadors. As there was properly no government, such disorders were almost unavoidable, no person daring to undertake to restrain them. At last, the privy-council ordered, that all foreigners should be permitted quietly to leave the kingdom. The prince of Orange sent particular passes to the pope's nuntio, the envoys of Poland, Savoy, and Modena. The Popish lords, Langdale and Montgomery, were released. But the earls of Peterborough and Salisbury were kept in custody, on account of impeachments against them. Romish priests and Jesuits, apprehended since the king's flight, were likewise detained.

A second insurrection of the mob. Ibid.

Mean while, as it was absolutely necessary to put an end to the present anarchy, the prince of Orange assembled the lords spiritual and temporal in London, to the number of above three score, and made this short speech to them. "My lords, I have desired you to meet here, to advise the best

The prince assembles the peers about London. Dec. 21. State Tracts, T.I. p. 100. Echard. III. p. 939. Kennet, p. 537.

James II. 1688. "manner how to pursue the ends of my declaration, in calling a free parliament, for the preservation of the Protestant religion, the restoring the rights and liberties of the kingdom, and settling the same, that they may not be in danger of being again subverted." Upon speaking these words, he withdrew and left them to consult together. His declaration was read, and the lords voted him their particular thanks. Then they resolved to assemble every day in their old house at Westminster, and named five of the most eminent lawyers (e) to assist them in the room of the judges, who were most of them absent. It was farther proposed, that the whole assembly should sign the association subscribed by the nobility and gentry at Exeter. To this all agreed, except the duke of Somerset, the earls of Pembroke and Nottingham, the lord Wharton, and all the bishops but that of London. The objection of the bishops was chiefly founded upon the unchristian word "Revenge," which, to satisfy them, was afterwards changed for that of "punishment."

The bishops and some temporal lords refuse to sign the association. Echard.

In the mean time, the king was at Rochester in a melancholy situation. He perceived his flight had done him an irreparable injury. The proceedings at London showed, that he was no longer regarded as a king to be intrusted with the government, and it was not in his power to restore himself by force. Nevertheless, some of his friends pressed him to call a parliament, assuring him that since his misfortune there was a great turn in the minds of the city and army, and that compassion for him generally prevailed. But the very name of a free parliament made him tremble. For, besides that his conscience might reproach him and inspire this fear, he plainly saw, the least which could befall him, would be, that the parliament would take effectual measures for the security of the Protestant religion, and that, as long as he lived, he should be ever distrusted. Probably it was the fear of passing the rest of his days in so uncomfortable a state, which determined him to withdraw into France. Indeed in taking that course, he might hope one day to be restored by the assistance of that crown. Whereas by staying in England, he saw no other advantage, than the enjoyment of a royalty, surrounded with troubles and mortifications, and in which he could not without danger attempt to recover his former authority. Whatever were his motives, which can only be guessed, on the 23d of December, about three in the morning, he pri-

State Tracts  
T. I. p. 95.  
Kennet,  
p. 538.  
Echard.  
III. p. 940.  
Burnet,  
p. 204.

(e) Sir John Maynard, Holt, Pollexfen, Bradford, and Atkinson. Kennet, p. 537.

vately



vately withdrew, taking with him only the duke of Berwick James II. his natural son, Mr. Skelton, and Abbadie, and went on horseback to a place near the river, where he embarked on a small frigate, which landed him safely at Ambleteuse in France, from whence he repaired to St. Germain. It was easy to execute this design, no person about him having orders to stop or hinder him from disposing of himself as he pleased. Very probably, the prince of Orange received no less satisfaction from this second, than he had from the first flight. The king's presence in the nation could not but greatly embarrass him. Besides his natural generosity, he had promised the princess that nothing should be attempted against the life or liberty of her father. So, the king could not do a greater service to the prince, than voluntarily to retire out of the kingdom. Especially, as this afterwards furnished a pretence to say, he had abdicated the crown, which abdication paved the prince's way to the throne. When the king quitted Rochester, he left the following paper written with his own hand.

"The world cannot wonder at my withdrawing myself now the second time. I might have expected somewhat better usage, after what I wrote to the prince of Orange, by my lord Feversham, and the instructions I gave him: but instead of an answer, such as I might have hoped for, what was I to expect after the usage I received, by making the said earl a prisoner, against the practice and law of nations? The sending his own guards at eleven at night, to take possession of the posts at Whitehall, without advertising me in the least manner of it: the sending to me at one of the clock at midnight, when I was in bed, a kind of order by three lords, 'To be gone out of my palace before twelve that same morning?' After all this, how could I hope to be safe, so long as I was in the power of one who had not only done this to me, and invaded my kingdoms, without any just occasion given for it; but that did, by his first declaration, lay the greatest aspersions upon me that malice could invent, in that clause of it which concerns my son. I appeal to all that know me, nay, even to himself, that in their consciences neither he, nor they, can believe me in the least capable of so unnatural a villainy, nor of so little common sense, to be imposed on in a thing of such a nature as that. What had I then to expect from one, who, by all arts hath taken such pains to make me appear as black as hell to my own people, as well as to all the world besides? What effect

James II. " effect that hath had at home, all mankind have seen  
 1688. " by so general a defection in my army, as well as in the  
 " nation, amongst all sorts of people.

" I was born free, and desire to continue so: and though  
 " I ventured my life very frankly on several occasions, for  
 " the good and honour of my country, and am as free to  
 " do so again (and which I hope I shall yet do, as old as  
 " I am, to redeem it from the slavery it is like to fall un-  
 " der) yet I think it not convenient to expose myself to be  
 " so secured, as not to be at liberty to effect it; and for  
 " that reason to withdraw; but so as to be within call  
 " whensoever the nation's eyes shall be opened, so as to  
 " see how they have been imposed upon by the specious  
 " pretences of religion and property. I hope it will please  
 " God to touch their hearts, out of his infinite mercy, and  
 " to make them sensible of the ill condition they are in, and  
 " bring them to such a temper, that a legal parliament may  
 " be called; and that, amongst other things which may be  
 " necessary to be done, they will agree to liberty of con-  
 " science to all Protestant Dissenters; and that those of my  
 " own persuasion may be so far considered, and have such  
 " a share of it, as they may live peaceably and quietly, as  
 " Englishmen and Christians ought to do, and not be obli-  
 " ged to transplant themselves; which would be very  
 " grievous, especially to such as love their own country.  
 " And I appeal to all men, who are considering men, and  
 " have had experience, whether any thing can make this  
 " nation so great and flourishing, as liberty of conscience?  
 " Some of our neighbours dread it. I could add much more,  
 " to confirm what I have said, but now is not a proper  
 " time."

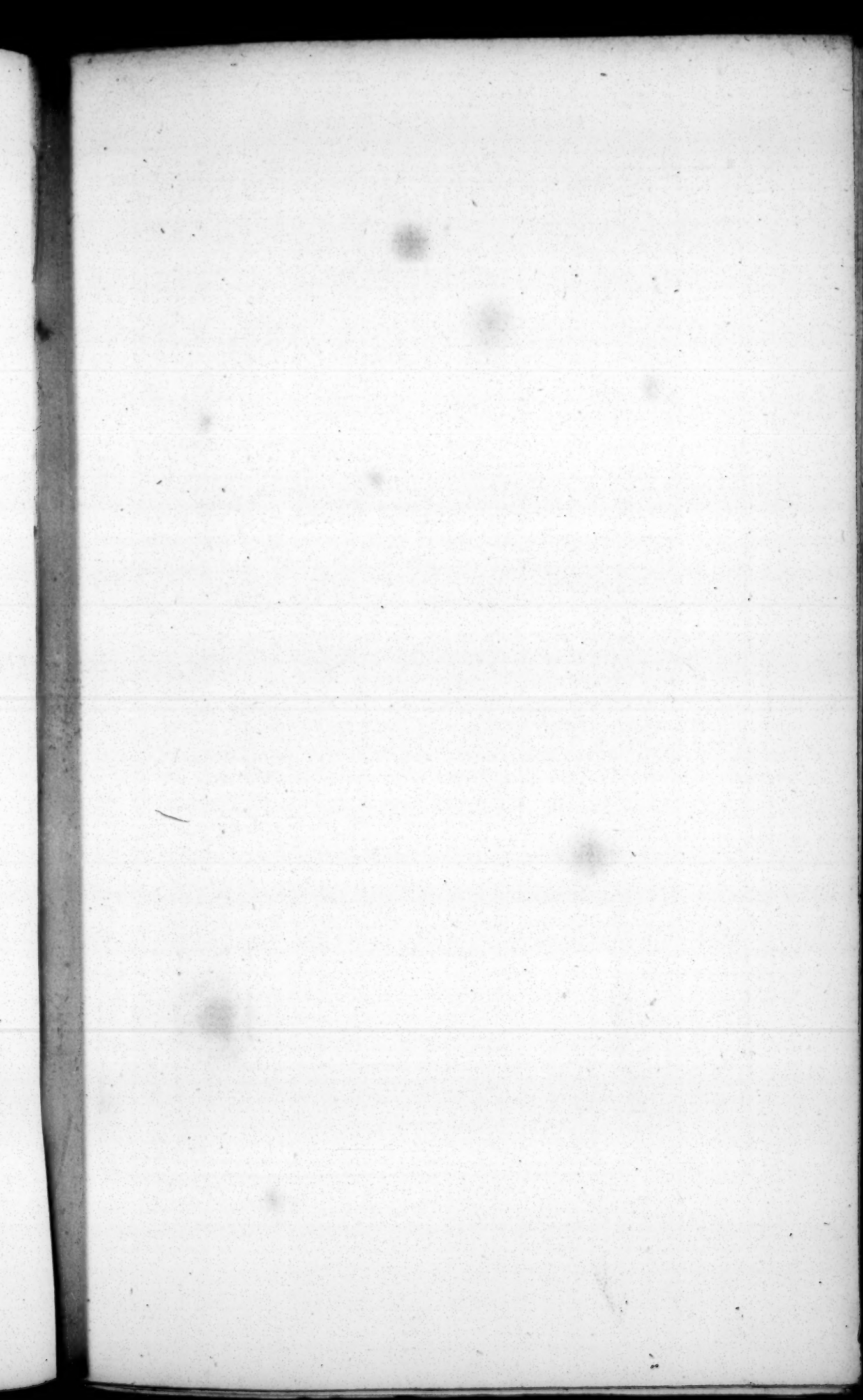
This paper remained not unanswered. As I have not been able to procure Dr. Burnet's animadversions upon it (f), I shall endeavour to supply the want with some observations.

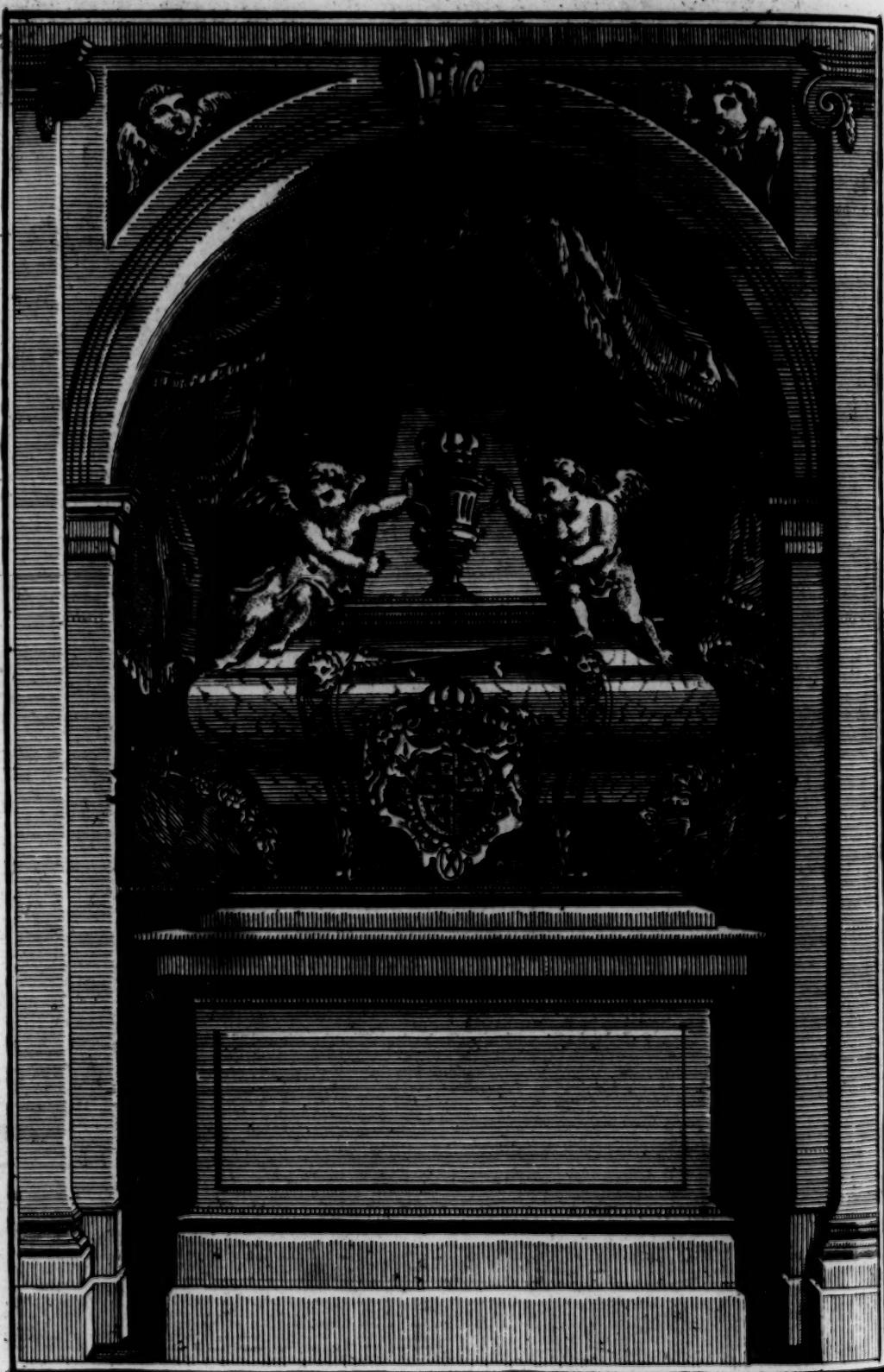
T. III.  
 p. 941.

The first is taken from Mr. Echard, who very justly observes " That though the king gave some reasons for his se-  
 " cond desertion, he gave none at all for his first." Now it was the first, which chiefly demonstrated, that he chose rather to abandon his kingdoms, than be forced to restore religion and the laws.

(f) They are in State-Tracts, Tom. I. p. 126.







*The Monument of K. JAMES II. Erected in y<sup>e</sup> Chappel  
of the Scotch College at Paris in the Year 1703.*

*J. Mynde sc.*



2. The king supposed, that after the disobliging manner in which he had been treated by the prince of Orange, he had no room to believe himself safe. And yet he could not deny, that he had been in the power of the prince, by whom his person was untouched. At the very time of his writing this paper, he was at full liberty to concert measures for his escape into France, and actually executed that design, without any opposition.

James II.  
1688.

3. What he said concerning the birth of the prince of Wales, was founded upon the impossibility, that those who knew him, should believe him capable of so unnatural a villainy. But it was the very belief of his being privy to that unnatural villainy, which fixed the imputation upon him.

4. He ascribes the defection of his army and the whole nation, to the artifices and calumnies of the prince of Orange; whereas the whole history of his reign is a demonstration, that it could only be imputed to his own conduct.

5. He supposed, that he withdrew himself, in order to come and redeem the nation from slavery. But this supposition has been destroyed by the event, there having been in England but very few, who really wished his restoration.

6. He insisted, that liberty of conscience was absolutely necessary to render the English nation great and flourishing. But there was not, perhaps, a single Englishman, who believed this was the end proposed by the king, or that was not convinced, it was only a pretence to introduce his own, and to destroy the Protestant religion.

7. His saying, that some neighbours dreaded the nation's becoming too great, by the establishment of liberty of conscience, was only an insinuation to make the people believe, that the Dutch had lent their ships and forces to the prince of Orange, for that very reason.

THE

# THE INTERREGNUM.

Interreg.  
1688.

The vacancy of the throne.

The lords take upon themselves the administration of the government. Echard, III. p. 943.

**U**PON the king's departure, there was an Interregnum, but of such a nature, as the like had never been known in England. It was not owing to the death, but to the flight of the sovereign. So, at the same time, the nation was without a king, and without any one to represent him, and to take care of the government; and yet there was a king, but a fugitive, and who pretended not to renounce his rights. In such circumstances, it is in vain to appeal to laws, customs, or precedents, since the difference between this state, and that which laws and customs suppose, is manifest.

As soon as the lords heard of the king's departure, they believed themselves invested with a power to act in their own names, because indeed, in such a juncture, it could properly belong only to them, to take upon them the government. There was no parliament in being, and consequently no house of commons to join with them. By the death or desertion of the king, all public offices and employments cease, because they come from him. There remains therefore no authority but in the peers, who are nearest the throne, and consequently, more authorized to take care of the government, till it can be settled by the body of the nation, by means of a parliament. The state of the kingdom was such, that there was no example of the like to serve for a precedent. The king had abandoned the nation, without being forced to it. He was in full liberty, and there did not appear any other motive of his flight, than the fear of being obliged to call a free parliament, which, probably, would not have approved of his late measures, but restored the constitution to its ancient state. The prince of Orange pretended not to have a right to govern; his pretensions consisted only in procuring a free parliament. But this parliament must be called by some authority. And by what authority could a parliament meet, if the nation continued in anarchy, where no person would have a right to meddle with the government? It was therefore the peers, who alone were entitled to take care of the state, or else it must be said, that because the king



king was pleased to desert the nation, without settling the Interreg. government, the state was to remain in anarchy, till he 1688. should think fit to resume the care of it. Let the inconveniences arising from the power assumed by the lords, be never so much urged, those which anarchy would have produced, were infinitely greater and more dangerous. Nay, who knows, whether one of the motives of the king's flight, was not to leave the nation in this state of confusion? Be that as it will, the juncture was such, that extraordinary proceedings could not be avoided.

The first thing done by the peers, after consulting together, was the addressing the prince of Orange, "To take upon him the administration of publick affairs, both civil and military; the disposal of the publick revenue; and the care of Ireland, till the meeting of the intended convention." The address was dated the 25th of December. By a second address they desired him, "To issue out missive letters, subscribed by himself, to the lords spiritual and temporal being Protestants, and to the several counties, cities, and boroughs, containing directions for the chusing, within ten days, such a number of persons to represent them, as are of right to be sent to parliament." These addresses were signed by about ninety lords, that were then present in the house. They were followed by an order from the same peers, to all Papists to depart the city of London, and ten miles from the same, and not to remove from their habitations above five miles; excepting the servants of the queen-dowager, the domestics of foreign ministers, and all house-keepers in London, and ten miles from the same, who had been traders for three years last past, provided they gave in to the lord-mayor, their names and places of abode, in eight days; and also such Popish officers as should give bail in six days, to appear the first day of the term, and to be on their good behaviour in the mean time; but such officers as should neglect, were to be taken into custody.

The word Convention, to signify a parliament assembled without the customary formalities, was new in England, where it had been, as I think, but once used in that sense, namely, after the restoration of king Charles II. This prince finding, upon his return into England, a parliament sitting which had not been summoned by him, would not own it for a parliament, on account of the consequences. But on the other hand, he would not deprive himself of the benefit of the resolutions of this parliament, which had restored him to the throne of his ancestors. So, to reconcile these

Address the prince to charge himself with it: Decem. 25.

And to call a Convention. Gazettes, No. 2414. Kennet. Burnet,

They issue out an order against Papists. Echard. III. p. 944.

A remark upon the word Convention.

Interrog.  
1688.

The prince  
assembles  
several old  
members of  
parliament,  
Kennet.  
p. 558.  
Echard.  
III. p. 945.  
946.

and asks  
their advice.  
Ibid.  
Gazettes.  
No. 2414.  
State Tracts  
T. I. p. 100.

Which was  
to take upon  
him the go-  
vernment,  
and to call a  
convention.  
Dec. 28.  
Gazettes.  
No. 2414.

these two things together, he was willing to own it as a convention. Probably, the word was borrowed from what is practised in Scotland, where a difference is put between a convention of the states, and a parliament. It was therefore this convention of the year 1660, that the lords had in view, when they addressed the prince of Orange to call one. But as this was a single precedent, and as the convention of the year 1660, had been first called under the name of a parliament, the prince thought, that besides the suffrages of the peers, it was proper to be authorized by others, which might pass for those of the people. He therefore published an order, "Desiring all such persons as had served in any of the parliaments during the reign of the late king Charles II, to meet him at St. James's, upon the 26th of December, by ten of the clock in the morning. He desired likewise, that the lord-mayor and court of aldermen of the city of London, and fifty of the common-council, would be there at the same time."

In pursuance of this order, about a hundred and sixty members, the aldermen of London (the mayor being indisposed) and the deputies of the common-council, met at St. James's on the day appointed, where the prince briefly told them, "That he had desired them to meet him there, to advise the best manner how to pursue the ends of his declaration, in calling a free parliament, for the preservation of the Protestant religion, and the restoring the rights and liberties of the kingdom." They all repaired immediately to the commons house in Westminster, where the first question they debated, was "What authority they had to assemble?" Upon which it was soon agreed, that the request of the prince was a sufficient warrant. The next question was, "How the prince could take upon him the administration of affairs, without a distinguishing name or title?" But as this question tended to prolong the deliberations, and defeat the ends proposed by the meeting, it was thought proper to wave such questions in their future debates. An association was likewise proposed to be signed, but every person was left at liberty to subscribe it or not. After these previous debates, they resolved to address the prince, to take upon him the administration of public affairs, until the meeting of the convention, the 22d day of January next. The answer returned by the prince to this address, and to that of the lords, was the same, that he would endeavour, as far as he was able, to secure the peace of the nation, according to their desire.

During



During the king's stay at Rochester, Barillon, the French ambassador, had been very active to promote divisions amongst the peers, with a view to serve the king. Of this the prince was not ignorant; but as he was not yet invested with any authority, he was obliged to suffer it, though he knew he had not a greater enemy in England than that ambassador. But the moment he was intrusted with the government, he sent an express order to him to leave the kingdom within four and twenty hours. At the same time, he sent St. Leger, a French refugee, to attend him to the ship. That gentleman could not forbear saying to the ambassador, as they were on the road, "Sir, had any one told you a year ago, that a refugee should be commissioned to see you out of England, would you have believed it?" The ambassador answered, "Sir, cross over with me to Calais, and I will give you an answer."

Kennet.  
P. 539.  
Echard.  
III. p. 947.

The French ambassador ordered to leave England.

On Sunday the 30th of December, the prince of Orange went to the royal chapel at St. James's, where he was present at divine service (g), and a sermon preached by Dr. Lloyd, bishop of St. Asaph; after which he received the sacrament from the hands of the bishop of London. This public profession of the established religion, greatly contributed to dispel the fears of those, who dreaded his too zealous adherence to the Presbyterian religion, in which he had been educated. But it must be observed, that tho' the difference between the Episcopal and Presbyterian churches has occasioned much noise, disturbance, and enmity in England, yet, both then and now, very few foreign Protestants scruple to communicate with the church of England.

The prince communicates in the church of England.  
Ibid.  
Kennet.  
p. 540.

The next day, the prince published a proclamation, authorizing all public officers, not being Papists, to act in their respective offices, till the meeting of the intended convention, or other order to the contrary.

Gazettes,  
No. 2415.

The same day he paid a visit to the queen-dowager, who indirectly asked him to release her chamberlain the earl of Feversham, which the prince readily granted.

The prince visits the queen-dowager.  
Kennet.

Though in the history of the two last reigns I have said but little of the affairs of Scotland, the reader however may have remarked, that this kingdom was entirely subjected to an arbitrary power, and withal, to Episcopacy, contrary to the general bent of the people. When the prince of Orange's declaration for Scotland, (the same in substance with that

Affairs of Scotland.  
Burnet.  
p. 804.  
Echard.  
III. p. 947.

(g) Dr. Burnet read prayers. Kennet, p. 540.

for

Interreg.  
1688.

for England) appeared there, the Presbyterians began to take courage, those at the helm not daring to use any violence for fear of a general insurrection, which would have been extremely prejudicial to the king's affairs at that juncture. Things remained in this situation, till the king's party began to retire into England. For tho' the Scotch bishops had published an abhorrence of the prince's expedition, it was by no means the sentiments of the nation in general. Every one felt the weight of the yoke imposed on them, and the Episcopalians themselves had reason to fear, that under the pretence of humbling the Presbyterians, the king intended to destroy the Protestant religion. So far their case was the same with that of the English. And therefore the duke of Queensbury, and some other Scotch gentlemen were come to London, to desire a free parliament. Hence may be known, what the Scots thought of their present slavery. The lord chancellor, upon the news of king James's withdrawing, immediately resigned the great seal, and retired from Edinburgh. Upon which, the populace of that city insulted and rifled, not only the Roman Catholics, but also those who had appeared most devoted to the Episcopal party. So, the bishops were forced to retire, to avoid the insults of the Presbyterians, who were now much superior to their late persecutors. On the other hand, several Scotch lords and gentlemen repaired to London, to observe the motions there, and to determine their conduct by that of the English.

Jan. 7.  
State Tracts  
T. I. p. 102.

The prince of Orange, who could not visit Scotland, assembled all the Scotch nobility and gentry then in London, who meeting at St. James's, to the number of thirty lords and fourscore gentlemen, he asked their advice, what was to be done for securing the Protestant religion, and restoring their laws and liberties, according to his declaration? After this short speech, the lords and gentlemen repaired to the council-chamber at Whitehall, and chusing duke Hamilton their president, consulted together, what advice was most proper to be given to the prince. This affair was in effect settled the first day. But on the morrow, they were interrupted by a proposal from the earl of Arran, that the king should be desired to return, and call a free parliament. The tendency of this proposal was easily seen, and therefore it was unanimously rejected. At last, it was agreed to present an address to the prince of Orange, to desire him to take upon him the administration of all affairs, both civil and military, and



and to call a general meeting of the states to be holden the Interreg.  
14th of the following March. This address being presented 1688.  
to the prince, he desired time to consider of it, and two days  
after returned much the same answer as he had to the Eng-  
lish.

The prospect from Ireland was not so pleasing. The  
earl of Tyrconnel, a zealous Papist, and entirely devoted to  
the king, was lord-lieutenant, and supported by an army,  
which he had taken care to compose of Popish officers and  
soldiers. There was room therefore to fear, that the earl  
would not submit to the resolutions taken in England, and he  
was not then to be forced to obedience. Mean while, the  
prince of Orange having received addresses not only from the  
English lords and commons concerning Ireland, but likewise  
from the Protestants of that kingdom, could not but endea-  
vour to procure the happiness of a nation which depended  
upon England. It was therefore thought proper to summon  
the earl of Tyrconnel by a letter, to submit to the present  
administration in England. The delivery of this letter was  
committed to colonel Hamilton, who promised to second it  
with his persuasions. But it was afterwards known, that he  
acted in concert with Tyrconnel directly to oppose it.

Of Ireland.  
Echard.  
III. p. 948.  
Burnet,  
p. 805.

The prince, and the lords, as I have said, had ordered  
the forces disbanded by the earl of Feversham to re-assemble.  
When this was done, the prince discharged the arrears of the  
English army, with two hundred thousand pounds, advanced  
in four days by the city of London, sixty thousand of which  
was lent by Sir Samuel Dashwood. After this, he ordered a  
reform of eight new raised regiments, besides the troop of  
life-guards, commanded by the lord Dover, who were all  
Papists. Then, several colonels and other officers having re-  
signed their commissions on account of the new oath exacted  
of them, he filled their places with Protestants, and in a word  
took all possible care to put the army under such a regulation,  
as might render it serviceable to the state.

Kennet,  
p. 540.  
Echard.  
III. p. 950.  
Burnet.  
p. 806.

The archbishop of Canterbury had hitherto declined wait-  
ing on the prince of Orange. But at last he sent a compli-  
ment to the prince, and with seven or eight bishops more  
signed the association, after some words were softened in it,  
that gave them uneasiness.

The arch-  
bishop of  
Canterbury  
signs the as-  
sociation.

About the same time, ninety Dissenting ministers attended  
the prince, and assured him of their fervent prayers for the  
preservation of his person, and the success of his endeavours  
for the defence and propagation of the Protestant interest.  
The prince returned a favourable answer, though expressed in  
Vol. XII. M general

The Dissen-  
ting mini-  
sters wait on  
the prince.  
Echard,  
III. p. 951.

**Interreg.** general terms, insinuating, that it would not be his fault, if  
**1688.** they were not made easy.

**Elections**  
**for the con-**  
**vention.**  
**Burnet.**  
**p. 869.**  
**Gazettes,**  
**No. 2416.**  
**Kenhet.**  
**The prince**  
**sends for the**  
**princess.**  
**Echard.**  
**III. p. 954.**

In the mean time, the elections for the members of the convention proceeded with all imaginable freedom. The electors gave their votes according to their own inclinations, without solicitations from the prince, or his friends. Moreover, the prince had ordered the soldiers to remove at a certain distance from the places of election, to take away all pretence of compulsion.

Mean while, the prince considering, that the convention was to settle the government, thought proper to send for his princess; since if, as it was probable, the convention should declare the throne vacant, no person had a juster pretension to it than she. Very likely also, he thought he had himself room to aspire to it, by his late great service to the English. But a severe frost retarded her departure from Holland longer than he expected.

**1688-9.**  
**The con-**  
**vention**  
**meets.**  
**Id. p. 955.**  
**Kenhet,**  
**p. 541.**

The commons met the 22d of January in two houses, as a parliament. The peers chose George Savile, marquis of Halifax for their speaker; and the commons, Mr. Henry Powle. In each house was read the following letter from the prince of Orange, on the occasion of their meeting:

“ My lords and gentlemen,

**The prince**  
**of Orange's**  
**letter to the**  
**convention.**

“ **I** H A V E endeavoured to the utmost of my power, to perform what was desired from me, in order to the public peace and safety; and I do not know that any thing hath been omitted which might tend to the preservation of them, since the administration of affairs was put into my hands. It now lieth upon you to lay the foundations of a firm security for your religion, your laws, and your liberties. I do not doubt, but that by such a full and free representative of the nation, as is now met, the ends of my declaration will be attained: and since it hath pleased God hitherto to bless my good intentions with so great success, I trust in him, that he will compleat his own work, by sending a spirit of peace and union to influence your counsels, that no interruption may be given to a happy and lasting settlement.

“ The dangerous condition of the Protestants in Ireland, requiring a large and speedy succour, and the present state of things abroad, oblige me to tell you, that next to the danger of unseasonable divisions amongst ourselves, nothing can be so fatal as too great delay in your consultations. The States, by whom I have been enabled to

“ rescue



"rescue this nation, may suddenly feel the ill effects of it, Interreg.  
 "both by being too long deprived of the service of their 1688-9.  
 "troops, which are now here, and of your early assistance  
 "against a powerful enemy, who hath declared a war against  
 "them. And as England is by treaty already engaged to  
 "help them upon such exigencies, so I am confident, that  
 "their chearful concurrence to preserve this kingdom with  
 "so much hazard to themselves, will meet with all the re-  
 "turns of friendship and assistance; which may be expected  
 "from you, as Protestants and Englishmen, whenever their  
 "condition will require it.

"Given at St. James's the 22d day of January,  
 "1688-9."

After the reading of this letter, the two houses presented an address to the prince, in which they acknowledged him, under God, the deliverer of the nation: they approved likewise of all that he had done since he had been intrusted with the administration, which they prayed him to continue till farther application should be made to him by them, which should be done with all convenient speed. They promised also to dispatch the matters recommended to them by his letter. The prince in his answer accepted the offers made him by the two houses, and strongly pressed them to a consideration of the affairs of Europe.

The prince  
 addressed by  
 the two  
 houses.  
 Kennet,  
 p. 541.  
 Echard,  
 III. p. 956.  
 State Tracts.  
 T. I. p. 104.

The first thing done by the two houses after their address of thanks to the prince, was to appoint a day of public thanksgiving to God, for the happy deliverance of the nation. As, on these occasions, prayers suited to the day are always composed by the bishops, they had an order to insert a particular prayer for the prince of Orange.

A thank-  
 giving ap-  
 pointed.  
 Jan. 31.  
 Ibid.  
 Echard.

In the mean time, king James; perceiving the prejudice his flight would do him, endeavoured to prevent it, by a letter directed to the "lords, and others of his privy-council." He repeated the reasons contained in the writing left on his table at his departure from Rochester, and declared his intention to return to England for the holding a free parliament. He reproached the prince of Orange with artifices to hinder his holding such a parliament, and required their advice "What was fit to be done by him towards his re-  
 "turning." Tho' this letter was immediately printed and dispersed, it was little regarded. Even the persons to whom it was addressed, judged it not proper to return an answer, at a time the convention was sitting. James therefore sent a letter of the same tenor to both houses of the convention,

A Letter  
 from king  
 James to his  
 privy-coun-  
 cil.  
 Kennet.  
 p. 543.  
 Echard,  
 III. p. 953.

and to the  
 two houses  
 of conven-  
 tion.

**Interreg.** adding a promise, on the word of a king, of a pardon even to those that betrayed him, (some few excepted) and a resolution, by an act of oblivion, to cover all faults. But both houses returning the letters unopened, the king's friends complained of it, as of a great hardship.

**Rejected.**

**Kennet.**

**P. 542.**

**Echard.**

**III. p. 959.**

The house of commons deferred their sitting till the 28th of January, to give time to the rest of their members to come up to town. That day, Mr. Dolben, son to the late archbishop of York, made a long speech to prove the vacancy of the throne, by the king's deserting the kingdom. Upon this arose a debate, which held four or five hours, and ended with this memorable vote:

**Votes of the commons.**  
**Debates about the abdication.**

"That king James the Second, having endeavoured to subvert the constitution of the kingdom, by breaking the original contract between king and people; and by the advice of Jesuits and other wicked persons, having violated the fundamental laws, and withdrawn himself out of the kingdom, hath 'abdicated' the government, and that the throne is thereby become vacant."

**Another.**  
**Echard,**  
**III. p. 960.**

The next day, the commons farther voted, "That it hath been found by experience to be inconsistent with this Protestant kingdom, to be governed by a Popish prince."

**Address to the prince of Orange.**

They presented likewise an address to the prince of Orange, for the stopping all ships that were going to France. Two days after, they voted, that the thanks of the House should be given to the clergy of the Church of England, who had refused to read in the churches the king's declaration for toleration; and also to the officers and soldiers, for having testified their ready adherence to the Protestant religion; and to all such as had appeared in arms for the defence of the same. All these votes were sent up to the lords for their concurrence.

**Great debates in the house of lords.**  
**Kennet.**  
**P. 543.**  
**Echard,**  
**III. p. 960.**  
**Burnet.**  
**P. 809, 813.**

But in the house of lords things passed not with that unanimity. There were several parties, who caused every question to be nicely examined. It was on the 29th of January, that the lords began to consider the vote of the commons, concerning the vacancy of the throne. The first motion was, "Not to agree with the commons that the throne was vacant, but only to suppose it for the present, leaving it to be further examined afterwards, in order to cut short several other questions, by determining this first, 'Whether the throne being vacant, it ought to be filled up by a regent or a king?'" Daniel Finch, earl of Nottingham, who was at the head of the party for a regent, made a long speech,



speech, alledging several arguments for a regency, taken Interreg. from the English and other histories. He insisted particularly 1688-9. upon what had very lately passed in Portugal, where, Alphonso VI being deposed, his brother, don Pedro, had only the title of Regent of the kingdom conferred on him. But the marquis of Hallifax and the earl of Danby demonstrated on the other side, the insuperable difficulties attending the administration of the government under a regent. At last, after a very long debate, the question being put to the vote, fifty one were for a king, and forty nine for a regency (a). Thirteen bishops were among the last, and but two among the first, namely, Dr. Compton bishop of London, and Sir Jonathan Trelawney bishop of Bristol. The archbishop of Canterbury was absent.

A regency is proposed,

and rejected.

If the Principles advanced by the Church of England in the reign of Charles II, and the doctrine of passive-obedience and non-resistance so strenuously maintained, and publicly preached, be remembered, it will not be thought very strange, that the bishops should refuse to vote for deposing king James, and setting another king on the throne. This was directly contrary to the maxims they had not long since approved, and from which they did not think proper to depart entirely. The truth is, by maintaining these extravagant maxims, without admitting any limitations, at a time when they thought only of opposing the principles of the republicans, they had thrown themselves into a very dangerous strait, of which they were not sensible, till they saw the Protestant religion exposed to the danger attending these maxims. They perceived then, it was absolutely necessary to limit the regal authority, and were themselves the first to do it, by openly refusing to read the declaration for liberty of conscience. Herein they acted directly contrary to the principle of passive-obedience and non-resistance, maintained before with such ardour by the Church of England. This the king reproached them with, when he told them, He did not expect to meet with resistance from the Church. So, after establishing as an essential doctrine of the Church of England, that the royal power is by divine right, and that the king can never be disobeyed without sin, they showed by their own

Remark on the Church of England.

(a) The chief of those that voted for a regency, were, the dukes of Somerset and Beaufort; the earls of Kent, Pembroke, Clarendon, Rochester, Craven, Westmoreland, Scarborough, Chesterfield, Litchfield, York, and Lindsey; the lords Weymouth, Coventry, Brooke, Leigh, Ferrars, Chandos, Jermyn, Arundel of Trefise, Dartmouth, Godolphin, Griffin, &c. Kennet, p. 544.

Interreg. practice, that it must be received with this restriction,  
 1688-9. "When the king enjoins things according to law. But in  
 "case his commands are contrary to law, he not only may,  
 "but even ought to be resisted." A doctrine which would  
 never have been contested, had it been thus explained at first.  
 When I say the bishops, I mean the Church of England in  
 general.

It is therefore certain, that when the question was to be  
 decided, Whether, on supposition of the vacancy of the  
 throne, it should be filled with a king or a regent, the  
 Church of England was satisfied that James II. had violated  
 the laws, and no longer deserved to be trusted with the go-  
 vernment of the kingdom. This was the general opinion.  
 The only point was to know, whether the title of king  
 should be left him, and a regent appointed to govern in his  
 room, or whether another king should be set on the throne.  
 It is easy to see the little difference between a king actually  
 deposed, whose throne is filled by another, and a fugitive  
 king, from whom no more orders are to be received, and  
 whose authority is exercised by a regent not of his own chu-  
 sing. But, besides the particular view some lords might  
 have, of rendering the restoration of king James less difficult,  
 by leaving him the title of king, the bishops found a con-  
 siderable advantage in a regency. For by that they did not  
 swerve so far from the principle they had before preached,  
 and caused to be preached, that the regal power is *jure di-  
 vino*. Indeed, when religion was in extreme danger, they  
 had not thought fit to insist upon this principle. They had  
 only suffered and approved the prince of Orange's coming  
 to the relief of their religion, but moreover, some had in-  
 vited him into England. But the storm being over, the  
 king a fugitive, the Catholic party suppressed, and all fear  
 vanished, they believed they ought not entirely to depart  
 from their principles. If, for their own safety, they were  
 willing the kingdom should be governed, not by king James,  
 but by a regent, they could not, on the other hand, resolve  
 openly to recede from what they had maintained, that  
 the regal power is *jure divino*, and the king's character in-  
 delible.

The ques- On the morrow, January 30, this question was put in  
 tion, whe- the house of lords, "Whether or no there was an original  
 ther there be "contract between the king and people?" This question  
 an original was warmly debated, several maintaining, that such a con-  
 contract. tract was only a chimera. Others rejecting the general as-  
 Kennet. sertions urged by the first, and the instances brought from  
 p. 544. the  
 Echard.  
 III, p. 969.



the practice of other countries, confined themselves to the Interreg. particular constitution of the English government. They 1688-9. endeavoured to show, that it must have been by virtue of such a contract, that the parliament was possessed jointly with the king, of the legislative power; otherwise, the right of the parliament, in their opinion, could be founded only upon custom, which was not sufficient to balance the king's pretended divine right: whence it would follow, that the king, in virtue of his divine right, might abolish this custom, and render himself absolute. But that the prevention of such a misfortune was the occasion of their present meeting. The question being put to the vote, fifty three were for the original contract, and forty six only against it.

Burnet,  
p. 881, 815.

It passes in  
the affirmative.

The next day, they took into consideration the word "abdicated," and entered into a grammatical dispute, to know whether the word could be understood only of a voluntary abdication, without any mixture of compulsion, and it was concluded, that the word "deserted" was more proper. They next examined the word "vacant," and put this question, "Whether king James, having broke that original contract between him and his people, and deserted the government, the throne was thereby vacant?"

Debate  
about the  
word "Ab-  
"dicated".  
It is rejected.

Question  
about the  
vacancy.

The debates upon this question were longer, and more warm than any of the former. In short, the party that maintained, it was a law-maxim, That, "The king never dies," and consequently, that the throne can never be vacant, carried the negative of the question by eleven voices. But on the morrow, forty lords entered their protestations against the vote. As the lords vote was founded upon the crown's devolving, on the king's demise, immediately to the next heir, without any vacancy, some of the other party moved, that supposing king James to be dead in law, the prince and princess of Orange should be declared king and queen. But this was also carried in the negative by five voices.

Rejected.  
Protestation.

Motion to set  
the prince  
and princess  
of Orange on  
the throne  
rejected.

Echard,  
III. p. 962.  
Remarks on  
these votes.

If these several resolutions be considered, and compared together, the lords will doubtless seem to have rendered it impossible to settle the government any way. In the first place, the first vote by which the regency was rejected, was founded upon the supposition of the throne's being vacant, and yet by the last vote it was carried, that the throne was not vacant. Secondly, it appeared, that they were not for king James. It was agreed, he had broke the original contract, and deserted the government, and yet it was decided, that the throne was not vacant. Thirdly, in voting that the throne was not vacant, because the king never dies, and the

Interreg.  
1688-9.

A petition  
to the lords  
drawn up in  
London.  
Echard,  
III. p. 962.

Suppressed  
by the prince  
of Orange.

The lords  
send down  
the vote  
with two  
amendments

Conference  
upon the  
occasion.  
Feb. 4.  
Debates  
about the  
abdication.  
p. 4-9.  
Echard.  
Kennet.

regal authority devolves, after the king's natural or civil death, to the next heir, they refused to acknowledge the princess of Orange for queen. There remained therefore but one expedient, namely, to recognize for king the prince of Wales, who was conveyed into France; a prince, that by most of the English, was believed supposititious, and besides would, probably, be educated in the Romish religion. But the commons had voted, and the lords concurred afterwards to the vote, that it was inconsistent with a Protestant kingdom, to be governed by a Popish king. The several resolutions of the lords upon the questions proposed, seem therefore to tend solely to render the settling of the government impracticable. This, no doubt, was the aim of some among them, that the difficulties might not possibly be surmounted, but by recalling king James. Many were satisfied of this, and therefore a petition was drawn up to be presented to the lords, desiring, in plain terms, that the prince and princess of Orange might be settled on the throne. Care was taken to get this petition signed by all sorts of people, that by the great number of subscribers it might pass for the sense of the nation. But the prince of Orange not liking this way of proceeding, sent the lord-mayor orders, to put a stop to this tumultuous project, which was accordingly done.

The 2d of February, the lords sent a message, to acquaint the commons with two amendments they had made to their vote of the 28th of January. The first was, instead of the word "abdicated," they would have "deserted" put in. The second, that the words, "and that the throne is there-  
" by become vacant," should be left out. The commons, not pleased with these two amendments, appointed a committee to draw up reasons why they must insist upon their vote, and desired a conference with the lords upon that subject. This conference produced no effect, each house persisting in their opinion. Only the earl of Nottingham intimated from the lords, that they insisted upon the amendments, not to favour king James, but solely to maintain hereditary right, in the fear that the election of a king might destroy that right. But the commons persisting still in their opinion, by a superiority of two hundred and eighty two, against one hundred and fifty one, appointed twenty four of their most able members to manage on this extraordinary occasion at a free conference, for which the lords named on their part, the earls of Nottingham, Clarendon, Rochester, Pembroke, with the bishop of Ely, and some others.



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As this conference between the two houses is the most remarkable, ever known in England; as well for the importance of the thing itself, as for the ability of the managers, I shall insert it at large, and take the liberty to add some remarks, for the illustration of the speeches made on this occasion.

Mr. Hampden, who opened the conference, said, My lords, — “The word **ABDICATED**, the commons conceive, is of a larger signification than the word your lordships are pleased to use, **DESERTED**; but not too large to be applied to all the recitals in the beginning of the commons vote, to which they meant it should be applied. Nor ought it to be restrained to a voluntary express resignation, only in word or writing; overt-acts there are, that will be significant enough to amount to it. My lords, That the common law of England is not acquainted with the word, it is from the modesty of our law, that it is not willing to suppose there should be any unfortunate occasion of making use of it.

Your lordships next amendment is, that your lordships have left out the last words in the commons vote, ‘And that the throne is thereby vacant.’ My lords, the commons conceive it a true proposition, and that the throne is vacant; and they think they make it appear, that this is no new phrase; neither is it a phrase that perhaps some of the old records may be strangers to, or not well acquainted with: but they think it not chargeable with consequences that your lordships have been pleased to draw from it, ‘That it will make the crown of England become elective.’ If the throne had been full, we know your lordships would have assigned that, as a reason of your disagreement, by telling us who filled it; and it would be known by some public royal act, which might notify to the people, in whom the kingly government resided; neither of which had been done, and yet your lordships will not allow the throne to be vacant.”

Mr. Sommers (b) said; — “If it be an objection that the word ‘**abdicated**’ hath not a known sense in the common law of England, there is the same objection against the word ‘**deserted**.’ So that your lordships first reason hath the same force against your own amendment, as it hath against the term used by the commons. The words

(b) A famous lawyer, who was afterwards lord chancellor in the reign of king William III. Rapin.

“are

Interreg. " are both Latin words, and used in the best authors, and  
 1688-9. " both of a known signification; their meaning is very well  
 " understood; though it be true, their meaning be not the  
 " same: the word 'abdicate' doth naturally and properly  
 " signify, 'entirely to renounce, throw off, disown, relin-  
 " quish any thing or person, so as to have no further to do  
 " with it; and that whether it be done by express words, or  
 " in writing,' (which is the sense your lordships put upon it,  
 " and which is properly resignation or cession) or, 'by do-  
 " ing such acts as are inconsistent with the holding, or re-  
 " taining of the thing;' which the commons take to be the  
 " present case, and therefore made choice of the word 'ab-  
 " dicate,' as that which they thought did, above all others,  
 " most properly express that meaning: and in this latter  
 " sense it is taken by others." [Here, to show that it was  
 the true signification of the word, he urged the authorities of  
 Grotius, Calvin, Brissonius, Budæus, and Praeleius.] " But  
 " the word, 'deserted,' hath not only a very doubtful signi-  
 " fication, but in common acceptance, both of the civil and  
 " common law, doth signify only a 'bare withdrawing, a  
 " temporary quitting a thing, a neglect only which leaveth  
 " the party at liberty of returning to it again." [For this he  
 quoted Spigelius and Bartolus, adding,] " Hence it appears,  
 " that that is called "desertion," which is temporary and re-  
 " lievable: that is called 'dereliction,' where there is no  
 " power or right to return. So in the civil law, the word  
 " 'desert' is used to signify, soldiers leaving their colours.  
 " And in the canon law to 'desert' a benefice, signifies no  
 " more than to be non-resident. In both cases, the party hath  
 " not only a right of returning, but is bound to return again:  
 " which, my lords, as the commons do not take to be the  
 " present case, so they cannot think that your lordships do;  
 " because it is expressly said in one of your reasons given in  
 " defence of the last amendment, 'That your lordships  
 " have been, and are willing, to secure the nation against  
 " the return of king James;' which your lordships would  
 " not, in justice, do, if you did look upon it as no more  
 " than a negligent withdrawing, which leaveth a liberty to  
 " the party to return. For which reasons, my lords, the  
 " commons cannot agree to the first amendment, to insert  
 " the word 'deserted' instead of 'abdicated;' because it  
 " doth not in any sort come up to their sense of the thing:  
 " so they do apprehend it doth not reach your lordships  
 " meaning, as it is expressed in your reasons; whereas they  
 " look upon the word 'abdicated,' to express properly what  
 " is



“ is to be inferred from that part of the vote, to which your Interreg,  
 “ lordships have agreed, ‘ That king James the Second, by 1688-9.  
 “ going about to subvert the constitution, and by breaking  
 “ the original contract between king and people, and by  
 “ violating the fundamental laws, and by withdrawing him-  
 “ self out of the kingdom,’ hath thereby renounced to be a  
 “ king, according to the constitution, by avowing to govern  
 “ by a despotic power, unknown to the constitution, and in-  
 “ consistent with it; he hath renounced to be king according  
 “ to the law, such a king as he swore to be at the coronation,  
 “ such a king to whom the allegiance of an English subject is  
 “ due; and hath set up another kind of dominion, which is  
 “ to all intents an ‘ abdication,’ or abandoning of his legal  
 “ title, as fully as if it had been done by express words (1).”

REMARK (1). It is easy to perceive, that these two  
 speeches of Mr. Hampden and Mr. Sommers refer to what  
 was objected by the lords in a former conference against the  
 word “ abdicated,” and the “ vacancy of the throne.” I  
 thought proper to omit that first conference, because most of  
 the things therein alledged, are repeated or this. However,  
 it may be seen here by the commons answers, what the lords  
 objections were.

Mr. serjeant Holt added, ——— “ For that part of your  
 “ lordships objection, ‘ That it is not a word known to the  
 “ common law of England,’ that cannot prevail; for your  
 “ lordships very well know, we have very few words in our  
 “ tongue, that are of equal antiquity with the common law;  
 “ your lordships know the language of England is altered  
 “ greatly in the several successions of time, and the intermix-  
 “ ture of other nations; and if we should be obliged to make  
 “ use only of words then known and in use, what we  
 “ should deliver in such a dialect, would be very difficult to  
 “ be understood.

“ Your lordships second reason for your first amendment,  
 “ in changing the word ‘ abdicated’ for the word ‘ de-  
 “ ferted,’ is, ‘ Because in the common acceptance of the  
 “ civil law, ‘ abdication’ is a voluntary express act of re-  
 “ nunciation.’ That is the general acceptance of the word,  
 “ and I think the commons do so use the word in this case,  
 “ because it hath that signification: But I do not know whe-  
 “ ther your lordships mean a voluntary express act or formal  
 “ deed of renunciation: If you do so, I confess I know of  
 “ none in this case: But my lords, both in the common law  
 “ of England, and in the civil law, and in common under-  
 “ standing, there are express acts of renunciation that are not  
 “ by

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“ by deed; for if your lordships please to observe, the go-  
“ vernment and magistracy is under a trust; and any acting  
“ contrary to that trust, is a renouncing of the trust, though  
“ it be not a renouncing by formal deed; for it is a plain de-  
“ claration by act and deed, though not in writing, that he  
“ who hath the trust, acting contrary, is a disclaimer of the  
“ trust; especially, my lords, if the actings be such as are  
“ inconsistent with, and subversive of this trust: for how can  
“ a man in reason or sense, express a greater renunciation of  
“ a trust, than by the constant declarations of his actions to  
“ be quite contrary to that trust?”

Then the earl of Nottingham spoke on the side of the lords,  
and said,——“ The main reason of the change of the  
“ word ‘deserted,’ is upon the account of the consequence  
“ drawn in the conclusion of your vote, ‘That the throne  
“ is thereby vacant:’ that is, what the commons mean by  
“ that expression, whether you mean it is so vacant as to null  
“ the succession in the hereditary line, and so all the heirs to  
“ be cut off, which we say will make the crown elective?  
“ And it may be fit for us to settle that matter first, and  
“ when we know what the consequence of the throne being  
“ vacant means in the vote as you understand it, I believe we  
“ should much better be able to settle the difference about  
“ the two words (2).”

REM. (2.) It does not appear that the commons had any  
thoughts of making the crown elective. This was a conse-  
quence ascribed to them by the lords, to have an occasion to  
contradict the vacancy of the throne.

To this it was replied by serjeant Maynard, “ My lords,  
“ when there is a present defect of one to exercise the admi-  
“ nistration of the government, I do conceive, the declaring  
“ a vacancy, and provision of a supply for it, can never make  
“ the crown elective. The commons apprehend there is  
“ such a defect now; and by consequence a present necessity  
“ for the supply of the government, and that will be next for  
“ your lordships consideration, and theirs afterwards. If the at-  
“ tempting the utter destruction of the subject, and subversion  
“ of the constitution, be not as much an ‘abdication’ as the  
“ attempting of a father to cut his son’s throat, I know not  
“ what is. My lords, the constitution, notwithstanding the  
“ vacancy, is the same; the laws that are the foundations  
“ and rules of that constitution are the same; but if there be  
“ in any particular instance, a breach of that constitution, that  
“ will be an ‘abdication,’ and that ‘abdication’ will infer a  
“ vacancy. It is not that the commons do say, ‘The  
“ crown



"crown of England is always and perpetually elective;" but **Interreg,**  
 "it is more necessary that there be a supply, when there is a **1688-9.**  
 "defect, and the doing of that would be no alteration of the  
 "monarchy from a successive one to an elective."

Then the bishop of Ely on the side of the lords said,  
 "Gentlemen, — That 'abdicated' may be tacitly by  
 "some overt-acts, Mr. Sommers very truly did alledge out  
 "of Grotius: but I desire to know whether Grotius, that  
 "great author, in treating on this subject, doth not inter-  
 "pose this caution, 'If there be a yielding to the times: if  
 "there be a going away, with a purpose of seeking to reco-  
 "ver what is for the present left or forsaken:' in plain En-  
 "glish, 'if there were any thing of force or just fear in the  
 "case, that doth void the notion of 'abdication.'"

Mr. serjeant Maynard replied, "But, my lords, that is  
 "not any part of the case declared by the commons in this  
 "vote; when the whole kingdom and the Protestant religion;  
 "our laws, and liberties have been in danger of being sub-  
 "verted, an enquiry must be made into the authors and in-  
 "struments of this attempt, and if he who had the admini-  
 "stration intrusted to him, be found the author and actor in  
 "it, what can that be but a renunciation of his trust, and  
 "consequently his place thereby vacant? 'Abdication,'  
 "(under favour) is an English word; and your lordships  
 "have told us, the true signification of it is a renunciation.  
 "We have indeed, for your lordships satisfaction, shewn its  
 "meaning in foreign authors; it is more than a 'deserting'  
 "the government, or leaving it with a purpose of return-  
 "ing."

The bishop of Ely replied, "The objection of the lords  
 "against the word 'abdicated,' is, 'That it is of too large  
 "a signification for the case in hand.' It seems to be ac-  
 "knowledgeed, that it reaches a great way; and therefore  
 "the lords would have a word made use of, which signifies  
 "only, 'the ceasure of the exercise of a right (3.)'"

REM. (3.) Hitherto the lords had not clearly discovered  
 why they rejected the word "abdicated." It appears here, by  
 what the bishop of Ely says, that it was because this word  
 expressed the commons meaning too well, and therefore the  
 lords would have another word in its stead, from which the  
 vacancy of the throne could not be inferred.

The bishop added, — "If there be such a defect as  
 "hath been spoken of, it must be supplied; there is no que-  
 "stion of that. And I think we have by another vote, de-  
 "clared, 'That it is inconsistent with our laws, liberties,  
 "and

Interreg. "and religion, to have a Papist to rule over this kingdom?"  
 1688-9. "Which I take to be only as to the actual exercise and

"administration of the government. It is Grotius his distinction between a right, and the exercise of that right; and as there is a natural incapacity for the exercise, as sickness, lunacy, infancy, doating old age, or an incurable disease, rendering the party unfit for human society, as leprosy, or the like; so, I take it, there is a moral incapacity; and that I conceive to be a full irremoveable persuasion in a false religion, contrary to the doctrine of Christianity. Then there must be a provision undoubtedly made for supplying this defect in the exercise, and an intermediate government taken care for; because become necessary for the support of the government, if he to whom the right of succession doth belong, makes the exercise of his government impracticable, and our obedience to him, consistently with the constitution of our religion, impossible; but that, I take it, doth not alter that right, nor is an 'abdication' of the right (4.)"

REM. (4.) It must be remembered that the bishop of Ely's position, which was afterwards maintained by others, was, that "there was a real distinction between a right, and the exercise of that right." They readily agreed, that James II, should be deprived of the exercise of the right to govern, but not of the right itself. Upon this distinction all the arguments of the lords are grounded.

"'Abdication' (continued he) no doubt is, by adoption, an English word, and well known to Englishmen conversant in books. Now it is objected, that it is not a word as ancient as the common law of England. We find it in Cicero, — where it sometimes signifies, 'The renouncing the actual exercise of a right,' and sometimes, 'The renouncing of the very right,' so that the signification is doubtful; and such words we hope the commons will not think fit to use in a case of this nature and consequence as ours now in debate. And besides, the lords apprehend, that great inconveniences will follow upon the use of this word, if it mean a 'renouncing absolutely of that right.' — Then there is another distinction in those authors that write concerning this point, which are chiefly the 'civilians.' There may be an 'abdication' that may 'forfeit the power of a king only;' and there may be one, that may 'forfeit both that and the crown too.' It is a distinction indeed in other words, but to the same sense. Those 'abdications' that are of power only, are incapacities; whether



“whether those I call natural and involuntary, as defects of sense, age, or body; or the like; or moral or voluntary, as contrariety in religion; an instance whereof there was lately in Portugal, which was a ‘forfeiture only of the power,’ and, not of the ‘name,’ and ‘honour of a king;’ for though the administration was put into the younger brother’s hand, the patents, and other public instruments, ran in the elder brother’s name (5.)”

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 “If the bishop of Ely had only a view to James II, the instance of the natural incapacities which made Alphonso VI, king of Portugal, forfeit the exercise of the regal power, does not seem to be to his purpose; since these incapacities were not the point in question, with regard to James II, which may make it suspected, that he had an eye to the prince of Wales. For, as will hereafter appear, the lords, in maintaining, that the throne was not vacant, pretended that by the civil or natural death of the king, the next heir was immediately to fill the throne, and this heir, according to some, was the prince of Wales. But as he was a minor, an intermediate governor must be appointed to govern in his name.

“This is not, without all doubt, naturally an ‘abdication’ in the full extent of the word; nor do I here (as I said) consider, whether that the king be gone out of the kingdom, or stay in is; but only, whether he be fit for the administration, which must be provided for, be he here, or gone away. But the highest instance of an ‘abdication,’ is, when a prince is not only unable to execute his power, but acts quite contrary to it; which will not be answered by so bare a word as ‘endeavour.’ I take these to be all the distinctions of ‘abdications.’ Now, if this last instance of an ‘abdication of both power and right,’ take place in a succeeding monarchy, the consequence will be, ‘That there is forfeiture of the whole right; and then that hereditary succession is cut off; which, I believe, is not intended by the commons. But here is one thing that is mentioned in this vote, which I would have well considered, for the preservation of the succession, and that is the original compact: we must think, sure, that meant of the compact, that was made at the first time, when the government was first instituted, and the conditions, that each part of the government should observe on their part, of which this was the most fundamental, ‘That king, lords, and commons, in parliament assembled, should have the power of making new laws, and altering of old ones:’ and that being one law which settles the succession, it is as much a part of the original

Interreg. 1688-9. “ original compact as any : then if such a case happens, as an  
 “ ‘ abdication’ in a successive kingdom, without doubt, the  
 “ compact being made to the king, his heirs, and successors,  
 “ the disposition of the crown cannot fall to us, till all the  
 “ heirs do ‘ abdicate’ too. There are indeed many exam-  
 “ ples, and too many interruptions in the lineal succession of  
 “ the crown of England : I think I can instance in seven  
 “ since the conquest, wherein the right heir hath been put  
 “ by : but that doth not follow, that every breach of the first  
 “ original contract, gives us power to dispose of the lineal  
 “ succession ; especially, I think, since the statutes of queen  
 “ Elizabeth, and king James the First, that have established  
 “ the oath of allegiance to the king, his heirs and successors ;  
 “ the law is stronger against such a disposition : I grant, that  
 “ from king William the First, to Henry VIII, there has  
 “ been seven interruptions of the legal line of hereditary suc-  
 “ cession ; but, I say, those statutes are made since that time,  
 “ and the making of new laws, being as much a part of the  
 “ original compact, as the observing old ones, or any thing  
 “ else, we are obliged to pursue those laws, till altered by  
 “ the legislative power, which, singly or jointly, without the  
 “ royal assent, I suppose, we do not pretend to. (6.)”

REM. (6.) By this reasoning the lords and commons being  
 agreed, that a Catholic king could not exercise the right of  
 government, and James II, being a Catholic ; and as he  
 might possibly have an infinite series of successors from father  
 to son, all Catholics, it would follow, that England might  
 be always governed by regents.

“ These laws being made since the last interruption, we  
 “ are not to go by any precedent that was made before the  
 “ making those laws. So that, all that I conceive ought to  
 “ be meant by our vote, is, ‘ But the setting aside the person  
 “ that broke the contract : and, in a successive kingdom, an  
 “ ‘ abdication’ can only be a forfeiture, as to the person him-  
 “ self.’ I hope, and am persuaded, that both lords and com-  
 “ mons do agree in this, ‘ Not to break the line of succe-  
 “ sion, so as to make the crown elective.’ And if that be  
 “ declared, that this ‘ abdication’ of king James the Second,  
 “ reacheth no farther than himself ; and that it is to continue  
 “ in the right line of succession, that, I hope, will make all  
 “ of one mind in this important affair. (7.)

REM. (7.) For the better understanding the bishop of  
 Ely’s speech, as well as some others that follow, it must be  
 observed, that among the lords who had voted for the va-  
 cancy of the throne, by a majority of eleven voices, there  
 were



were two sorts of men. The one, without any desire to favour king James, or the prince of Wales, had no other view than to oppose the republican party, who, under colour of gratitude to the prince of Orange, were labouring with all their power to have him elected king, reckoning it would be a large step towards advancing the authority of the people, and rendering the crown elective. Some of the lords voted against the vacancy of the throne, chiefly in opposition to this party. But there were others who carried their views farther, and by rendering the settling of the government impracticable, laboured indirectly, either to cause king James to be recalled, or the prince of Wales to be acknowledged for king, knowing it would be impossible to prove him supposititious in a legal manner. But as these concealed themselves among the others, and pretended only to defend hereditary right, it is hard to know by the speeches, who designed only to maintain hereditary right, and who had farther views. This the reader is to remember, that he may not imagine, all the lords who voted against the vacancy of the throne, were for king James.

Then the earl of Clarendon spoke on the lords side, and said,—"This breaking the original contract is a language that hath not been long used in this place; nor known in any of our law-books or public records, it is sprung up, but as taken from some late authors, and those none of the best received. It is not denied, 'That the king is bound by law, and bound to perform the laws made, and to be made.' But I would take notice, that his obligation thereunto, doth not proceed from his coronation-oath; for our law saith, 'He is as much king before he is crowned, as he is afterwards; and there is a natural allegiance due to him from the subjects immediately upon the descent of the crown upon him.' I was in great hopes, that you would have offered something in answer to one of my lord of Ely's reasons against that part of the vote, which declares, 'The throne to be vacant,' viz. 'That no act of the king's alone can bar, or destroy, the right of his heir to the crown, which is hereditary, and not elective.'" (8.)

REM. (8.) The earl of Clarendon begins with representing the original contract between king and people, as an imaginary thing. And yet he owns "the king is bounded by law, (though he cites none) and bound to perform, &c." But that this obligation proceeds not from this coronation-oath. What is it then that binds him?

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“ And then, if this matter goes no farther than king James the Second, in his own person; How comes the vacancy and the Supply to be devolved upon the people? for if he only be set aside, then it is apparent, where the crown is to go, to the person that hath the next right of succession, and consequently there is no vacancy.” (9.)

REM. (9.) The lords always spoke of the next heir, but without naming the prince of Wales. The reason is, that by raising, as they thought, invincible obstacles to the election of a new king, they designed by degrees to lead the commons to propose the examination of the prince of Wales's birth. But the managers for the commons carefully avoided that snare, and therefore the prince of Wales was not so much as once mentioned by name in the conference.

The earl of Nottingham added,——“ The lords having declared that they are willing, ‘ to secure the nation against the return of king James into this kingdom; and will therefore concur with the commons in any act that shall be thought necessary to prevent such his return, it should seem we were agreed in that matter; and if that were the point, we should find words proper soon enough to express our meaning by. But I find neither of the words, ‘ abdicated’ or ‘ deserted,’ will, on the one side or on the other, be allowed to signify this meaning. Therefore we should come presently to think of some other that would. But the reasons why my lords did chiefly insist upon the alteration of the word ‘ abdicated,’ was, ‘ Because they did apprehend, that it being a word not known to our laws, there might be other inferences drawn from it than they do apprehend our laws will warrant, from the case, as it is stated in the fact of this vote; and, as they conceive, is done in the concluding of the throne's being vacant.’ Therefore, I think it would shorten the present debate, if we did settle the point of the vacancy first. For if we were sure, that the throne were, or were not vacant, we should easily light upon what word were proper to be used in this case.”

Sir George Treby speaking on the side of the commons, said,——“ I think, my lord, the present debate is to begin, where the difference between the two houses doth begin, and that is at the word ‘ abdicated.’ ‘ Original contract,’ is a phrase and thing used by the learned Mr. Hooker, in his book of ‘ Ecclesiastical Polity.’ But I have a greater authority than this, and that is your lordships own, who have agreed to all the vote, but this word

“ ‘ abdi-



“ ‘abdicated,’ and the vacancy of the throne. But it is very much beyond what the vote before us doth lead us unto, “ ‘To talk of the right of those in the succession:’ for that goes farther than the very last part of our vote, and it is still to lead us yet farther, to say any thing about making the crown elective.” — Then he endeavoured to prove that king James had actually “abdicated” the kingdom, alleging the authority of Grotius, who says, “That if there be any word or action that doth sufficiently manifest the intention of the mind and will, to part with his office; that will amount to an abdication or renouncing.” “Now (added he) I beg leave to put this case, That had king James the Second come here into the assembly of lords and commons, and expressed himself in writing, or words, to this purpose: ‘I was born an heir to the crown of England, which is a government limited by laws, made in full parliament, by king, nobles, and commonalty; and, upon the death of my last predecessor, I am in possession of the throne; and, now I find, I cannot make laws without the consent of the lords and representatives of the commons in parliament; I cannot suspend laws that have been so made, without the consent of my people; this indeed is the title of kingship I hold by original contract, and the fundamental constitutions of the government; and my succession to, and possession of the crown, on these terms, is part of that contract: this part of the contract I am weary of, I do renounce it, I will not be obliged to observe it; nay, I am under an obligation not to comply with it; I will not execute the laws that have been made; nor suffer others to be made, as my people shall desire, for their security in religion, liberty and property, which are the two main parts of the kingly office in this nation.’ I say, suppose he had so express’d himself, doubtless, this had been a plain renouncing of the legal regular title which came to him by descent: If then he, by particular acts, such as are enumerated in the vote, has declared as much or more than these words can amount to, then he hath thereby declared his will to renounce the government. — And this doth amount to a manifest declaration of his will, no longer to retain the exercise of his kingly office according to law, he has sufficiently declared his renouncing of the very office, and therefore I cannot depart from insisting upon the word ‘abdicated,’ which doth so well correspond to the fact of the case, and so well expresses the true meaning of the commons in their vote.”

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The earl of Nottingham said, — “ I will not undertake to dispute, whether a king of England may, or may not, renounce his kingdom. For my own part, I think he can, and I may go so far in agreement with those that have spoken to this point, ‘ To yield that he may do it by implicit acts, contrary to the kingly office.’ For a king to say, he will not govern according to law; and for a king to act wholly contrary to law, and do that which would subvert the constitution, is (I think) the same thing. But then I must say also, that I think there is a difference between saying so, and doing something inconsistent with what the laws require; for every deviation from the law, is a kind of breach of the fundamental constitutions; as the laws are necessary, so far as to support the foundation. But if every transgression, or violation of the law, by the prince’s connivance or command, were such a breach of the fundamental laws, as would infer an ‘ abdication,’ then were it in vain to call any of his ministers or officers to account for any such action. Then the action is the king’s, and not theirs; and then adieu to the maxim of, ‘ A king’s not doing wrong.’ I take this matter to be so plain, as to the distinction that I have mentioned, that nothing can be more; and it has been thought so essentially necessary to have it clear and manifest, that those two great instances of Edward II, and Richard II, were express solemn renunciations, and those confirmed in parliament by the lords and commons, by the act of deposing them. Therefore I cannot infer from the facts enumerated in the vote, that this should be an ‘ abdication’ for himself and his heirs.”

Sir George Treby replied, — “ When a king breaks the law in some few particular instances, it may be sufficient to take an account of it from those evil ministers that were instrumental in it, why such a thing was done, which was against laws? Why such a law was not executed by them, whose duty it was to see it put in execution? You may, in ordinary cases of breaking the law, have remedy in the ordinary courts and course of justice. But sure! he does not take this to be such a case, or these to be ordinary violations of the law: And therefore, in the extraordinary cases, the extraordinary remedy is to be resorted unto. And where shall any man come to have any redress in such a case as this, when the malefactor comes to be party, unto whom all applications for relief and redress from injuries should be made, and so he himself shall be a judge of his own breaches

“ of



“ of law? This most apparently was the case as to the Quo Interreg.  
 “ Warranto’s, which was a plain design to subvert the con- 1689.  
 “ stitution in the very foundation of the legislature. It is be-  
 “ cause the king hath violated the constitution, by which the  
 “ law stands, as the rule both of the kingly government, and  
 “ the people’s obedience, that we say, he hath ‘abdicated’  
 “ and ‘renounced’ the government; for all other particular  
 “ breaches of the law, the subject may have remedy in the  
 “ ordinary courts of justice, or the extraordinary court of  
 “ parliamentary proceedings: but where such an attempt as  
 “ this is made on the essence of the constitution, it is not we  
 “ that have brought ourselves into this state of nature, but  
 “ those who have reduced our legal well-established frame of  
 “ government into such a state of confusion, as we are now  
 “ seeking a redress unto.”

The lords objecting nothing farther against the use of the word “abdicated,” the commons proceeded to the second amendment; namely, the leaving out the words, “And that the throne is thereby vacant.” Mr. Sacheverell opened the debate, and said,——“My lords, the commons, in using the words ‘abdication’ and ‘vacancy,’ had no thoughts of making the kingdom elective, neither can any such thing be deduced from their words. (10.)”

REM. (10.) As the principal reason which induced the lords to oppose the commons vote, was, the consequence drawn from thence, that the crown would thereby become elective, the commons were very careful to deny this consequence, by saying, that not only they had no such thought, but that it could not be inferred from their vote. This was a material point. For if the lords could have drawn from the commons a confession, that the consequence was just, they would have pretended, that by declaring the throne vacant, the constitution was subverted, and the crown made elective instead of hereditary. It seems, that the commons might have denied that the crown was originally hereditary, and maintained, it was so only by the statutes made in the reigns of Elizabeth and James I. From whence they might have inferred, that the parliament which settled the crown upon the descendants of James I, in the direct, and afterwards in the collateral, line, had likewise power to alter the order of the settlement. But they avoided all discussions of this nature, being sensible, that the design of the lords was to multiply the subjects of dispute, in order to increase the obstacles of the projected establishment.

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Mr. Sacheverell continued, "The commons reason for their disagreeing to this amendment, was, because they conceive (that as they may well infer) from so much of their own vote, as your lordships have agreed unto, 'That king James the Second hath abdicated the government; and that the throne is thereby vacant.' So, if they should admit your lordships amendments, 'That he hath only deserted the government;' yet, even thence would follow, 'It is vacant, as to king James the Second:' deserting the government being, in true construction, deserting the throne. If king James had only given over the exercise of the government, [as their lordships pretended] he continues in the office, and is king still; and then all the acts that we have done in this convention, are wholly (as we conceive) not justifiable, you are in no place or station to relieve yourselves, or the nation, in this exigence; unless you will think of setting up another regency by your own authority, without his consent; which, I conceive, by the laws of England, you cannot do. What then follows upon all we have done? we have drawn the nation into a snare, by the steps we have taken; and leave all in such an intricacy, as we have no power by law to deliver them out of; nor can we answer for what we have done, unless the king should die, and that would leave the succession uncertain."

Mr. Pollexfen pursuing the same argument, maintained, "That the lords saying in their vote, 'That the government was deserted,' could not mean only the exercise of it, but a vacancy: The king's power, and the exercise of that power, was, in construction of the law, one and the same, and so joined, that they could not be severed; and therefore, the supposed distinction was only notional, and altogether disagreeing to the laws of England. That it was utterly unlawful, and as great a crime, to take away from the king the exercise of the government, as to take from him the government; it might do well for their lordships to consider, whether they were not guilty of the same crime, which they would decline by their amendment. That the commons therefore could not admit, That there should be a taking away the exercise of the government from the king, any more than the taking away the government, which, the commons said, he had himself given away by 'abdication;' and that if king James was king still, they could not by any means agree to the keeping him out of the kingdom. That to have a regency upon  
king



“ king James without his own consent, or till his return, Interreg.  
 “ while the right was still in him, would be a strange and 1688-9.  
 “ impracticable thing, and introductive of a common-wealth,  
 “ instead of the ancient government by a limited monarchy;  
 “ and that the conclusion, That such a vacancy in the  
 “ throne would make the crown elective, had no premisses  
 “ either from their actions, their sayings, their votes, or any  
 “ thing else in that case.” (II).

REM. (II.) The lords answered but weakly Mr. Pollexfen's reasons. Several of those who were against a vacancy verily believed, it was as unlawful to deprive king James of the exercise of the regal power, as of the power itself. But they durst not directly undertake his defence, because they knew his person was odious to the whole nation. Wherefore, they had devised this distinction between a right, and the exercise of that right, to leave room for his restoration. Mr. Pollexfen, as appears, maintains, that this distinction is imaginary. Let the reader examine, whether it was well proved, or only supposed: or whether, in supposition of its reality, it was applicable to the point in hand.

The earl of Clarendon interposed, and said, “ He would  
 “ not declare his opinion about the vacancy as to king James,  
 “ but desired to know the meaning of the commons, how  
 “ far the vacancy was to extend?”

This gave occasion to Mr. Pollexfen to ask the lords,  
 “ Whether their lordships did agree, ‘ That the throne was  
 “ vacant as to king James the Second?’ That if so, or if  
 “ they should say it was full of any body else, and would  
 “ name whom it was full of, it would then be time for the  
 “ commons to give an answer.”

To which the same earl replied, “ That admitting, for  
 “ discourse sake, that the throne was vacant as to king  
 “ James the Second, it must then be supplied by those that  
 “ should have come if he were dead; this government being,  
 “ by all our laws, an hereditary monarchy, which is to go in  
 “ succession by inheritance in the royal line. That if the  
 “ commons said this government was vacant, that would be  
 “ to put all those by, that should take it by succession, which  
 “ would make the kingdom elective for that time: that the  
 “ lords said, there was no vacancy; but since the commons  
 “ said, The throne was vacant, he might very well ask,  
 “ Who had the right of filling up that vacancy?”

Mr. Serjeant Maynard answered, “ That was not the  
 “ question before them, though it would come properly in  
 “ debate, when they were agreed upon the vacancy; that

Interreg. 1689. " he granted the English monarchy to be hereditary; but  
 " though it should in an ordinary way descend to the heir,  
 " yet as their case was, they had a maxim in law as certain  
 " as any other, which stopt the course; for, said he, no  
 " man can pretend to be king James's heir while he is living:  
 " *Nemo est hæres viventis.*" (12.)

REM. (12.) Mr. Serjeant Maynard seems to have justly  
 remarked, that it was proper to agree upon the vacancy be-  
 fore they proceeded to the question, " Who should fill the  
 " throne?" otherwise the consequence would be examined  
 before the premisses were settled, on which it was founded.

The earl of Pembroke replied, " That to that point the  
 " lord Clarendon had given an answer, ' That it should go  
 " to the next heir in the line, that were to take it if the  
 " king were dead.' And that as they should be understood,  
 " they should make it a case of demise of the king's, as the  
 " law calls it; that is, the king was dead in law, by his  
 " abdication or desertion. That to answer the question of the  
 " commons, ' Who the throne was full of?' it was suffi-  
 " cient to know, that there were heirs, who were to take by  
 " lineal succession, though they did not, or could not, po-  
 " sitively name the particular person." (13.)

REM. (13.) If the lords had gained this point, that in  
 case the throne were vacant with regard to the person of  
 king James only, it should be filled by the next heir, they  
 would have thereby engaged the commons in a discussion of  
 the prince of Wales's birth, wherein they would have had  
 great advantages. But the commons desired, above all  
 things, to avoid this examination, into which the lords would  
 have artfully drawn them.

The earl of Nottingham argued, " That if the lords  
 " should grant a vacancy as to the king himself, yet they  
 " might justly do these acts mentioned in the commons rea-  
 " sons; for if barely the exercise of the government were  
 " deserted, there must be a supply of that exercise in some  
 " person's taking the administration; and as none so fit, be-  
 " cause of the prince's relation to the crown, and in his  
 " presence here, to address unto about it, so none so proper  
 " to make that address as the lords; since in the absence of  
 " the king, they were the king and kingdom's great council,  
 " and might have done by themselves without the commons;  
 " but being met in a full representative body, they joined  
 " with them. (14.)"

REM. (14.) This concerns only the vindication of the  
 lord's conduct, which had been a little censured by Mr.  
 Sacheverell



Sacheverell and Mr. Polluxfen. This vindication is wholly Interreg.  
founded upon the distinction between a right, and the exercise 1689.  
of that right, which the earl of Nottingham supposes, without  
undertaking to prove it.

“ They were told, ‘ That the next heir in succession could  
“ not take it, because no one could be heir to one alive ;’  
“ yet still he thought the answer given by the lords a very  
“ good one, ‘ That tho’ the king was not dead naturally,  
“ yet if (as they inferred) he was so civilly, the next of  
“ course ought to come in by hereditary succession ; for he  
“ knew not any distinction between successors in the case of  
“ a natural death, and those in case of a civil one : that he  
“ would know, if the next heir should be set aside, and  
“ another put in, Whether that king of England should  
“ be king to him and his heirs, and so being once upon the  
“ throne, the ancient lineal succession be altered ? which  
“ indeed would sufficiently make the kingdom elective, by  
“ taking it from the right heir ? That if it was not so, then  
“ he asked, Whether such a king as should be put in,  
“ should be king only during king James’s life ? That, he  
“ supposed, was not the meaning of the commons ; but at  
“ least, he must be made a king during his own life ; that  
“ then if there was a distinction made as to the succession,  
“ between a natural and a civil death, if king James should  
“ die during the life of the new king, what would become  
“ of the hereditary monarchy ? Where must the successor  
“ come in, when the next heir to king James might not be  
“ the present heir to the present successor ? That therefore  
“ they must reduce all to this point, Whether this would  
“ not make the kingdom elective ? That if they made it  
“ once elective, it was enough to make it ever so ; for he  
“ would be bold to say, They could not make a stronger tie  
“ to observe that kind of succession, than what lay upon  
“ them to preserve it in this case.”

He added, “ That if the throne was vacant, he would  
“ know whether they were obliged to fill it ? That if they  
“ were, they must fill it either by the old laws, or by the  
“ humour of those who were to chuse. That if they filled  
“ it by the old laws, they declared it was an hereditary  
“ kingdom, and they were to take the next successor, to  
“ whom the succession would belong, and there would be  
“ no need of standing upon a vacancy : that if they were to  
“ fill it according to the humour of the times, that diverted  
“ the course of inheritance ; and that he could not see by  
“ what authority they could do that, or change the ancient

“ con-

Interreg. 1689. " constitution, without committing the same fault they had  
 " laid upon the king. But, said he, if you please to sup-  
 " pose the throne vacant as to king James, that is, ' That  
 " he has no right,' then let us go on to the next step." (15).

REM. (15.) The earl of Nottingham enumerates here all the inconveniencies, difficulties, and contrarieties to the law which could arise from the commons vote, and all ended in the danger of rendering the crown elective. But he took care not to mention the difficulties which flowed from the lords opinion. The consequences of their opinion were, either that the kingdom should be left in its present confusion, or king James recalled, or the prince of Wales acknowledged for king. In all three, the danger was as great as in running the hazard of making the crown elective, which was the only danger the earl would have to be considered. As if the danger of leaving the kingdom in confusion, of recalling the king, of owning a prince who was by most people thought supposititious, who was absent and a minor, who would be bred in France in the Catholic religion, and from whom the same inconveniencies as had caused king James to be rejected, were to be feared when he should be of age: as if, I say, all these dangers were to be reckoned as nothing in comparison of the hazard of a breach in the lineal succession. Besides, it was only by way of consequence that the lords pretended that the crown would become elective by this breach, tho' the commons affirmed they had no such intention.

But Mr. Sacheverell replied, " That all their business was  
 " to maintain, That the throne was vacant."

And Mr. Sommers added, " That the lords alledged as a  
 " reason against the word ' abdicate,' That ' it was not a  
 " word known to our laws,' but that the word ' vacant'  
 " could not have that objection made to it, since it was in  
 " our records, and even applied in a parallel case to this in  
 " the first of Henry IV."

To which the earl of Rochester answered, " That as that  
 " was the only precedent for the word ' vacant,' yet it was  
 " attended with this very consequence, that it would make  
 " the monarchy elective; for it being there declared, That  
 " the royal seat was vacant, immediately did follow an  
 " election of Henry IV, who was not next in the royal  
 " line."

The same argument was pursued by the earl of Clarendon, who said, " That it was plain in the case of Richard II,  
 " who had absolutely resigned, renounced, or abdicated in  
 " writing



" writing under his own hand; that after that, the parlia-Interreg.  
 " ment being fitting, they did not think that sufficient to go 1689.  
 " upon, because that writing might be the effect of fear,  
 " and not voluntary: that thereupon they proceeded to a  
 " formal deposition upon articles; and then came in the  
 " claim of Henry IV: that this was undoubtedly an election;  
 " though he was really the next heir, the earl of March not  
 " appearing, Henry claimed it as his undubitable right, being  
 " the next heir that appeared: that all the kings that were  
 " thus taken in or elected, (for the election was not of God's  
 " approbation) any one year scarce passed in any of the  
 " reigns, without being disturbed in the possession: that  
 " Henry IV did not care to owe the crown to the elec-  
 " tion, but claimed it as his right; that it was a plausible  
 " pretence, and kept him and his son upon the throne; but  
 " in the time of his grandson Henry VI, there was an utter  
 " overthrow of his title and possession too: for in the first  
 " of Edward IV, all the proceedings against Richard II, as  
 " well as all the rest of the acts during the usurpation (as  
 " that record rightly calls it) were annulled, repealed, re-  
 " voked, and reversed, and all imaginable words used to set  
 " those proceedings aside, as illegal, unjust, and unrighteous:  
 " that that act deduced the pedigree of the royal line from  
 " Henry III, to Richard II, who died without issue; and  
 " then Henry IV, says the act, usurped; but that the earl  
 " of March, upon the death of Richard II, and consequent-  
 " ly Edward IV, from him, was undoubted king by con-  
 " science, by nature, by custom and by law." (16.)

REM. (16.) All the arguments from the acts of parlia-  
 ment relating to the differences between the houses of Lan-  
 caster and York, must be very weak. Because these parli-  
 aments did not all proceed upon the same principle, and  
 because the one pulled down what the other had set up. This  
 evidently appears, in that both sides in the present case, al-  
 leged some of the acts of these parliaments, in support of  
 their cause.

Hereupon Sir Robert Howard exerted himself, and replied,  
 " He would not say that the record of Henry IV, was not a  
 " precedent of election; for the parliament did not much  
 " mind his claim, knowing that he claimed by descent,  
 " where there was a person that had a title before him:  
 " thus the commons did not doubt but that power which  
 " brought in another line then, upon the vacancy of the  
 " throne by the lesion of Richard II, was still, according to  
 " the constitution, residing in the lords and commons, and  
 " was

Interreg. 1689. " was legally sufficient to supply the present vacancy: that  
 " he would ask the question of any lord there, whether,  
 " had there been an heir to whom the crown had quietly  
 " descended in the line of succession, and this heir certainly  
 " known, their lordships would have assembled without his  
 " calling, or would have either administered the government  
 " themselves, or advised the prince of Orange to have taken  
 " it upon himself? that he doubted they had been all guilty  
 " of high-treason by the laws of England, if a known suc-  
 " cessor of the throne were in possession of the throne, as he  
 " must be if the throne were not vacant: that from hence  
 " their lordships saw, that the difficulty in this matter arose  
 " from this, That they would all agree the throne to be va-  
 " cant, when they knew of none that possessed it; that  
 " some such thing had been pretended to as an heir-male, of  
 " which there were different opinions, and in the mean time  
 " they were without a government. Must we stay, added  
 " he, till the truth of the matter be found out? What shall  
 " be done to preserve our constitution, and in a little time it  
 " will, perhaps, through the distraction of our constitution,  
 " be utterly irremediable. He confessed it would be a difficult  
 " thing to go upon the examination who was heir, or else  
 " their lordships would have explained themselves before.  
 " But, continued he, it not being clear, must we always  
 " remain thus? Use what words you will, fill up, or nomi-  
 " nate, or elect, it is the thing that we are to take care of, and  
 " it is high time it was done. There is no such consequence  
 " to be drawn from this vote, as an intention or likelihood  
 " of altering the course of the government, so as to make it  
 " elective; the throne has all along descended in an heredi-  
 " tary succession, the main constitution has been preserved.  
 " The precedent of Henry IV, is not like that of elections  
 " in other countries; and I am sorry there should be any  
 " occasion for what is necessary to be done now; but when  
 " such difficulties are upon the nation, that we cannot ex-  
 " tricate ourselves out of, as to the lineal successor, your  
 " lordships, I hope, will give us leave to remember, 'Salus  
 " populi est suprema lex.' And if neither you nor we can do  
 " any thing in this case, we, who are met under the notion of  
 " a convention of the states, have then met to no purpose;  
 " for after we have voted ourselves to be without govern-  
 " ment (which looks as if something were really intended  
 " as to a settlement) all presently sinks, and we are as much  
 " in the dark as we were before. Your lordships say, you  
 " will never make a precedent of election, or take upon  
 " you



“ you to alter the succession. With your lordships favour, Interreg.  
 “ the settlement of the constitution is the main thing we are 1689.  
 “ to look after. If you provide for the supply of the defect  
 “ there, that point of the succession will, without all question,  
 “ in the same method, and at the same time, be surely pro-  
 “ vided for. But, my lords, have not you yourselves li-  
 “ mitted the very succession, and cut off some that might  
 “ have a lineal right? Have you not concurred with us in  
 “ our vote, ‘ That it is inconsistent with our religion and  
 “ laws to have a Papist to reign over us?’ Must we not  
 “ come then to an election, if the next heir be a Papist?  
 “ Nay, suppose there was no Protestant heir at all to be  
 “ found, would not your lordships then break the line? If  
 “ your lordships then in such a case must break through the  
 “ succession, I think the nation has reason to expect you should  
 “ take care to supply the present defect, where the succession is  
 “ uncertain; or what can we do further, but even part in  
 “ confusion, and so leave the nation to extricate itself as  
 “ well as it can out of its distraction. But even at whose  
 “ doors that will lie, I must leave to your lordships own  
 “ thoughts.”

It is said this speech, wherein good sense, and a zeal for  
 the nation equally shined, made a deep impression upon some  
 of the lords who assisted at the conference, and upon all the  
 rest of the audience. However, as the earl of Clarendon, to  
 prove the lineal succession, had alledged what passed with re-  
 gard to Edward IV, Sir George Treby undertook to explain  
 that matter, and said:

“ That it was very well known, that Edward IV came  
 “ in dis-affirmance of the title of the house of Lancaster:  
 “ that as those times went, whenever there was a turn in  
 “ government, as there were several, there were new and  
 “ contrary declarations about the title to the crown, made  
 “ constantly in parliament; and what one parliament settled,  
 “ another undid: but then, that this advantage the com-  
 “ mons had on their side; that as they had this first prece-  
 “ dent for them, so they had the last, viz. the parliament-  
 “ roll of the first of Henry VII, where the record is set  
 “ right again: that the act for deposing Richard II, was in-  
 “ deed repealed by the first of Edward IV, and thereupon it  
 “ proceeds to attain Henry VI; but then came in Henry  
 “ VII, in the first year of whose reign there was an act  
 “ made, that set aside all the acts and attainders made  
 “ against his line, and consequently it repealed the first of  
 “ Edward IV, which had repealed the first of Henry IV:

“ that

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“ that Henry VII, was of the line of Lancaster, and though  
“ he had the heirefs of the house of York in his bosom, yet  
“ after he came to the throne, he would not endure to have  
“ his crown reckoned matrimonial, or suffer the stile to go  
“ in the name of Henry and Elizabeth, as he must have  
“ done if he had stuck to the title by the right line of suc-  
“ cession. That therefore this act for restoring the record of  
“ the first of Henry IV again, was as good an authority as  
“ it was before, and somewhat better; for it had the last act  
“ on its side, which was yet unrepealed.”

Here the earl of Pembroke replied, “ That Henry VII  
“ had a good right and title by marriage to the crown, ‘in  
“ re uxoris;’ but that his own title, as descended from Hen-  
“ ry IV, was an usurpation; and therefore he would not  
“ suffer any one to prescribe which was best, as long as it  
“ was acknowledged he had one good.”

Sir George Treby returned, “ That if Henry VII’s title  
“ by descent was an usurpation, it was hard to determine  
“ what title he did govern by; since, though his wife was  
“ the lineal heir, yet she had no part, or so much as a  
“ name in the administration. But, added he, if we should  
“ allow none for acts of parliament, but those that were  
“ made in the reigns of hereditary kings, and in the right  
“ line, I doubt we shall want the greatest part of those laws  
“ that compose the volume of Statute-books, and the re-  
“ cords by which we enjoy a great part of our inheritances  
“ and possessions.”

Sir Richard Temple alledged, “ That if laws made about  
“ the succession be so obliging, what then should they say  
“ to the succession of queen Elizabeth, who had an act of  
“ parliament both against her and her sister.”

The earl of Pembroke replied, “ That to shew what  
“ opinion she herself, and the wise men of her time, had in  
“ that point, there was an act made in her reign, and yet  
“ in being, which declared it to be a præmunire, to affirm,  
“ the parliament cannot settle the succession of the crown,  
“ or alter it. That entails of the crown had been in par-  
“ liament, both ancient and modern; yet the authority of  
“ another subsequent act had prevailed against such an entail,  
“ so that they should be done in parliament.”

Sir Richard returned, “ He thought they were in as full  
“ a capacity to take care of the government, as any of their  
“ predecessors; and that if they did as their predecessors had  
“ done before them, that ought not to be called a changing  
“ of the monarchy from an hereditary to an elective.”

Here



Here the earl of Nottingham once more interposed and Interreg.  
 said, "He could not imagine how a kingdom could be he- 1689.  
 " hereditary, and that the king who had children in being at  
 " the time of his forsaking the government, could have the  
 " throne vacant, both of him and his children; that the  
 " course of inheritance, as to the crown of England, was  
 " by law a great deal better provided for, than that of any  
 " other inheritance, 'That no attainder of the heir of the  
 " crown could bar the succession to the throne,' as it did  
 " the descent to any common person; and that the very de-  
 " scent by order of birth would take away any such defect.  
 " That this was the opinion of the great lawyers of England,  
 " in the case of Henry VII; and therefore he could not ap-  
 " prehend, how any act of the father, could bar the right  
 " of the child; since even the act of the son, which might  
 " endanger an attainder in him, could not do it; so careful  
 " was the law of the royal line of the succession, which was  
 " declared by several acts of parliament, and very fully and  
 " particularly by the twenty-fifth of Henry VIII.—That  
 " he desired to know, whether the lords and commons had  
 " power by themselves to make a binding act or law? and  
 " whether, according to the legal constitution, every king  
 " of England, by being seated on the throne, and possessed  
 " of the crown, was not thereby king to him and his  
 " heirs? and that without an act of parliament he knew  
 " not what determination they could make of his estate.  
 " That it was urged indeed, that the lords had in effect  
 " already agreed to the vacancy, by voting, 'That it was  
 " inconsistent with our religion and laws, to have a Papist  
 " prince to rule over us:' but that a vote of either house, or  
 " both houses together, could not alter the law in that or  
 " any other point; yet because he was desirous that that  
 " vote should have its effect, he desired that every thing of  
 " that nature might be done in the ancient usual method of  
 " parliament. That since they were happily delivered from  
 " the fears of Popery and arbitrary power, God forbid they  
 " should assume any such power to themselves; for what  
 " advantage should they then give to those who would  
 " quarrel with their settlement for the illegality of it?  
 " Would not this, which they endeavour to crush, break  
 " forth into a viper? That in all the breaches that were  
 " made upon the line of succession, such was the force of  
 " the laws, that the usurpers would not take the crown  
 " upon them, unless they had some specious pretence of an  
 " hereditary title to it. That what he would have avoided  
 " by

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“ by all means, was the mischievous consequences that he  
“ feared would ensue upon the vacancy of the throne,  
“ namely, the utter overthrow of the whole constitution;  
“ for if the lords and commons only remained as parts of  
“ the government, and if the head be taken away, and the  
“ throne vacant, by what laws or constitutions was it that  
“ they retained lords and commons? That they were knit  
“ together in their common head; and that if one part of  
“ the government was dissolved, he saw not any reason but  
“ that all must be dissolved. He confessed, that any go-  
“ vernment was better than none; but he earnestly desired  
“ they might enjoy their ancient constitution.” (17.)

REM. (17.) The earl of Nottingham, in his speech, rea-  
soned like Charles I, in his disputes with the parliament.  
That is, he supposed the government in its natural state, and  
on that supposition, his arguments were strong. But it is  
hard to conceive a greater disorder in the government than at  
the time of this conference. King James had reigned three  
years in an arbitrary manner. He had violated, not some  
particular laws of little moment, but fundamental laws,  
whereon the security of the national religion and liberties  
depended. After which, he had withdrawn himself out of  
the kingdom, without taking any order about the govern-  
ment. Most men thought his son supposititious, and he had  
sent him into France. Could the government therefore be  
supposed in a natural state? and if it was not, the reasoning  
built upon such a supposition ought to fall to the ground.  
However express the laws may be, they always suppose some  
certain constitution of government. But if this constitution  
is broke, as may happen in all countries under the sun, How,  
in order to remedy this evil, can the laws be taken for rule,  
which suppose the government in its usual and natural state,  
and which have not provided for extraordinary unforeseen  
cases?

What the earl of Nottingham would intimate, though he  
does not speak plainly, is briefly this: The lords and com-  
mons are but two of the branches of the government, and  
can make no law without the third, that is, the king, who  
is their head, The king has absented himself. He must  
therefore be recalled, or waited for till he returns, or else  
his next heir must be owned for king. Now this heir is the  
prince of Wales. This is evident from the care that was  
taken not to name him. Or if none of these methods be  
followed, the kingdom must be left in a state of anarchy, or a  
regent



regent appointed to govern in the king's name, during his absence. Interreg. 1689.

The whole debate was closed with two short speeches made by Mr. Paul Foley, and Mr. Eyre: the former said, "He hoped there was no danger of shaking our fundamentals in this case; that they were pursuing those methods which agreed with our laws and constitution; for though the monarchy of this nation be hereditary in the ordinary course of succession, yet there might fall out a case wherein that could not be complied with, and a plain vacancy might ensue. For, said he, put the case the whole legal line should fail, should we in that case have no government at all? And who then should we have but lords and commons? And I think that comes nearest to the case in question, where the successor is not known; for if he had been, we should have heard of him before now. And what is the reason that it should then in the former case devolve to the lords and commons, but that there is no king? And they being the representative body of the kingdom, are the only remaining apparent parts of the government, and are only to supply the defect by providing a successor?"

Mr. Eyre subjoined, "That they were led out of the way, hunting after the consequences of a vote not yet agreed unto; That they had made a right and apt conclusion from the premises, otherwise all the vote was but historical: we declare, adds he, 'That the late King James has broke the original contract, has violated the fundamental laws, and has withdrawn himself out of the kingdom, that he has abdicated the government.' What occasion was there for such a declaration as this, if nothing were concluded from it? That were only to give the kingdom a compendious history of those miseries they have too well learned by feeling them. Therefore there was a necessity to make some conclusion; and none so natural as this; that we are left without a king, that the throne is thereby vacant, which it may be as to the possession, and yet the right of succession no ways prejudiced. But, my lords, we are come here by the commands of the house of commons, to debate the reasons of their vote, and your amendments, not to dispute what will be the consequences, which is not at present our province." And here ended this famous conference.

During all these debates in the convention, the prince of Orange staid at St. James's, without taking the least pains

The prince of Orange leaves every one at liberty

Interreg. 1689. to gain any one person to his party. He was never less affable, being desirous to shew by his behaviour, that his intention was not to deprive any man of the liberty to vote as he should think fit. The two houses were surprized that no body spoke to them in the prince's behalf. At last, finding that his silence might be ill construed, as if he was unwilling to take upon him the burden of royalty, he sent for the marquis of Halifax, the earls of Danby, Shrewsbury, and some others, and told them :

Burnet.  
p. 820.  
He declares  
his mind to  
some lords.

Ibid.

“ He had been till then silent, because he would not say  
“ or do any thing that might seem in any sort to take from  
“ any person the full freedom of deliberating and voting in  
“ matters of such importance: he was resolved neither to  
“ court nor threaten any one. Some were for putting the  
“ government into the hands of a regent: he would say no-  
“ thing against it, if it was thought the best mean for set-  
“ tling their affairs: only he thought it necessary to tell  
“ them, that he would not be the regent: so, if they con-  
“ tinued in that design, they must look out for some other  
“ person to be put in that post: he himself saw what the  
“ consequences of it were like to prove: so he would not  
“ accept of it. Others were for putting the princess singly  
“ on the throne, and that he should reign by her courtesy:  
“ he said, no man could esteem a woman more than he did  
“ the princess; but he was so made, that he could not think  
“ of holding any thing by apron-strings: nor could he think  
“ it reasonable to have any share in the government, unless  
“ it was put in his person, and that for term of life: if they  
“ did think it fit to settle it otherwise, he would not oppose  
“ them in it: but he would go back to Holland, and meddle  
“ no more in their affairs: he assured them, that whatsoever  
“ others might think of a crown, it was no such thing in  
“ his eyes, but that he could live very well, and be well  
“ pleased without it. In the end he said, he could not re-  
“ solve to accept of a dignity, so as to hold it only the life  
“ of another: yet he thought that the issue of the princess  
“ Ann should be preferred in the succession, to any issue he  
“ might have by any other wife than the princess.”

The lords  
concur with  
the com-  
mons vote.  
Id. p. 821.  
Reasons  
against exa-  
mining the  
prince of  
Wales his  
Birth.

This declaration being immediately divulged by those it was made to, did not a little contribute to bring the debates in the house of lords, to a speedy determination. As for the commons, about two thirds were for the prince.

When the report of the conference between the two houses was made to the lords, there was a very warm debate, whether they should insist upon the amendments. During the



the debate, it was moved, that the birth of the prince of Wales might be examined into. But this motion was at length rejected for several reasons: 1. The prince of Wales was now sent out of England to be bred up in France, an enemy both to the nation and the established religion. What therefore would such an examination signify? 2. It was impossible for the people of England to know, whether he was the same person that had been carried over or not. 3. In case he should die, another might be put in his room, in such manner, that the nation could not be sure concerning him. 4. The English nation ought not to send into another country for witnesses to prove that he was their prince, much less receive one upon the testimony of such as were not only aliens, but ought to be presumed enemies. 5. It was known, that all the persons who had been the confidants in that matter, were conveyed away; so it was impossible to come at them, by whose means only the truth of that birth could be discovered. It is pretended, there were some who thought it a deep piece of policy, to let the prince of Wales's title remain undecided, in order to deter the succeeding kings from imitating king James (a).

Interreg.  
1689.  
Burnet.  
p. 816.

At length, after a long debate, the majority of the lords departed from their two amendments, and agreed with the vote of the commons, "That king James had abdicated the government, and that the throne was thereby become vacant." Very likely, they who deserted the party of the earls of Nottingham, Clarendon, and Rochester, considered, that the suggested danger of the crown's becoming elective, was not to be compared to that which must necessarily happen, if the kingdom was left in the present confusion, or king James recalled, or the prince of Wales acknowledged for king. It is said however, that the scale was turned to this side, by the arrival of some lords, who were not present in the house when the two amendments were voted: but they are not named. It is hardly probable that the pretended arrival of these lords should have occasioned the change in the house of peers. There must have been a dozen at least, and all of the same side, which is not very likely.

Kennet.  
p. 547.  
Echard.  
III. p. 977.

(a) Burnet says, that when this matter was debated in private, some observed, that as king James by going about to prove the truth of the birth, and doing it so defectively, had really made it more suspicious than it was before; so, if there was no clear and positive proof made of an imposture,

the pretending to examine into it, and then the not being able to make it out beyond the possibility of contradiction, would really give more credit to the thing than it then had, and, instead of weakening it, would strengthen the pretension of his birth, p. 887.

Interreg.  
1689.

The lord  
Danby pro-  
poses to the  
princess to  
be queen  
alone.

She refuses.  
Burnet,  
p. 819.

It is con-  
cluded that  
the prince  
and princess  
should be  
king and  
queen.  
Feb. 7.  
Kennet.  
p. 547.  
Burnet,  
p. 821.

This great step being made, the next thing to be debated was, who should fill the vacant throne. The marquis of Hallifax moved, That the crown should be given to the prince of Orange alone, and to the two princesses after his death. But he was not seconded (b). If Dr. Burnet bishop of Salisbury is to be credited, Bentinck (c), the prince's favourite and confident, strenuously supported this proposal. The debate upon this affair was very long. It was readily agreed, that the princess of Orange should be placed on the throne; but the question was, whether the prince should be king of himself, or as husband of the princess? Upon this, parties began to be formed in both houses. Mean while, as the princess was detained in Holland by the frost, and by contrary winds after the thaw, the earl of Danby sent one over to the princess, with an account of the present state of the debate, and to tell her, that if she desired it, he did not doubt but he should be able to carry it, for setting her alone on the throne. The princess answered, She was the prince's wife, and would never be other than what she should be in conjunction with him, and under him. Adding, she would take it very ill, if any, under a pretence of their care for her, would set up a divided interest between her and the prince. Not content with this, she sent the lord Danby's letter [and her answer] to the prince, and thereby broke all the measures of those, who wished to create a misunderstanding or jealousy between them. The earl of Danby received not the least mark of displeasure from the prince of Orange, who continued still to employ and trust him.

At last, both houses agreed, and voted severally, that the prince and princess of Orange should be king and queen of England, but that the sole and full regal power should be in the prince only, in the name of both. However, this was carried in the house of lords but by two or three voices only, and not without a protestation entered against it by the contrary party (d.)

(b) Burnet says, many of the republican party approved of this; for by it they gained another point: The people in this case would plainly elect a king without any regard to the order of succession, p. 818.

(c) Afterwards earl of Portland.

(d) Burnet, p. 822, says, that things were so near an equality in the house of lords [one hundred and

twenty being present,] that it was carried by a very small majority of two or three, to agree with the commons in voting the 'abdication' and 'vacancy' of the throne, and that the vote by which the prince and princess were declared to be king and queen went very hard. Echard says by twenty voices; sixty-five against forty-five.

The



The last debate in the convention, was, concerning the oaths that should be taken to the king and queen. To avoid all cavils upon the terms, [rightful and lawful king] in the usual oath, it was thought proper to reduce the oath to the ancient simplicity of swearing, "to bear faith and true allegiance to the king and queen." Hence arose the famous distinction of a king "de facto," and a king "de jure," some pretending, that they took the oath to the king and queen, only as king and queen "de facto," whom they were bound to obey no longer than they continued in quiet possession; but that it was lawful for them to assist king James, if he should come to recover his crown, as being still their king "de jure." This distinction proceeded chiefly from the clergy, who had so far entangled themselves with those strange conceits of the divine right of monarchy, and had so engaged themselves by publicly preaching passive-obedience and non-resistance, as an essential doctrine of the Church of England, that they did not know how to disengage themselves from the snare they themselves had laid, at a time when they little thought of being ever taken in it.

At length, on the 12th of February, the princess of Orange arrived at London, and seemed very well pleased with what had been resolved, that the administration of the government should be in the prince only, in the name of both. Thus the strict union between the prince and princess broke the measures of such as hoped to create a misunderstanding between them, in order to serve their old master.

The next day, the prince and princess of Orange being seated on two large chairs, under a canopy of state in the Banqueting-house, both houses of the convention waited upon them in a full body, to offer them the crown. But before they proceeded to this solemn offer, they caused the clerk of the crown to read the following declaration of the lords spiritual and temporal, and commons assembled at Westminster.

"WHEREAS the late king James the Second, by the assistance of divers evil counsellors, judges, and ministers employed by him, did endeavour to subvert and extirpate the Protestant religion, and the laws and liberties of this kingdom; by assuming and exercising a power of dispensing with, and suspending of laws, and the execution of laws, without consent of parliament: By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the

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The oath of  
allegiance is  
altered.

Burnet,

p. 821.

Whence the  
notion of a  
king de jure  
and a king  
de facto.

Arrival of  
the princess  
of Orange.

Kennet,

p. 547.

Burnet,

p. 825.

Echard.

The con-  
vention  
make a so-  
lemn offer  
of the  
crown.

Feb. 13.

Kennet,

p. 547.

Echard.

III. p. 978

Interreg. 1689. " said assumed power : By issuing and causing to be executed,  
 " a commission under the great seal, for erecting a court, cal-  
 " led, ' The court of commissioners for ecclesiastical causes :'  
 " By levying money for and to the use of the crown, by pre-  
 " tence of prerogative, for other time, and in other manner,  
 " than the same was granted by parliament : By raising and  
 " keeping a standing army within this kingdom in time of  
 " peace, without consent of parliament ; and quartering sol-  
 " diers contrary to law : By causing several good subjects,  
 " being Protestants, to be disarmed, at the same time, when  
 " Papists were both armed and employed contrary to law :  
 " By violating the freedom of election of members to serve in  
 " parliament : By prosecutions in the court of King's Bench  
 " for matters and causes cognizable only in parliament ; and  
 " by divers other arbitrary and illegal courses. And whereas  
 " of late years, partial, corrupt, and unqualified persons,  
 " have been returned and served on juries in trials, and parti-  
 " cularly divers jurors in trials for high treason, which were  
 " not freeholders ; and excessive bail hath been required of  
 " persons committed in criminal cases, to elude the benefit of  
 " the laws made for liberty of the subjects ; and excessive fines  
 " have been imposed ; and illegal and cruel punishments in-  
 " flicted ; and several grants and promises made of fines and  
 " forfeitures, before any conviction or judgment against the  
 " persons upon whom the same were to be levied. All  
 " which are utterly and directly contrary to the known laws  
 " and statutes, and freedom of this realm.  
 " And whereas the said late king James the Second,  
 " having ' abdicated ' the government, and the throne being  
 " thereby vacant, his highness the prince of Orange (whom  
 " it hath pleased Almighty God to make the glorious instru-  
 " ment of delivering this kingdom from Popery and arbitrary  
 " power) did (by the advice of the lords spiritual and tem-  
 " poral, and divers principal persons of the commons) cause  
 " letters to be written to the lords spiritual and temporal, being  
 " Protestants, and other letters to the several counties, cities,  
 " universities, boroughs, and cinque-ports, for the chusing of  
 " such persons to represent them, as were of right to be sent to  
 " parliament, to meet and set at Westminster, upon the 22d  
 " day of January, in this year 1688, in order to such an  
 " establishment, as that their religion, laws, and liberties,  
 " might not again be in danger of being subverted. Upon  
 " which letters, elections having been accordingly made ;  
 " and thereupon the lords spiritual and temporal, and com-  
 " mons, pursuant to their respective letters and elections, be-  
 " ing



“ ing now assembled in a full and free representative of this Interreg.  
 “ nation, taking into their most serious consideration the best 1689.  
 “ means for attaining the ends aforesaid, do, in the first place  
 “ (as their ancestors in like case have usually done) for the  
 “ vindicating and asserting their ancient rights and liberties;  
 “ declare,

“ 1. That the pretended power of suspending of laws, or  
 “ execution of laws, by regal authority, without consent of  
 “ parliament, is illegal.

“ 2. That the pretended power of dispensing with laws,  
 “ or the execution of laws, by regal authority, as it hath  
 “ been assumed and exercised of late, is illegal.

“ 3. That the commission for erecting the late court of  
 “ commissioners for ecclesiastical causes, and all other com-  
 “ missions and courts of the like nature, are illegal and per-  
 “ nicious.

“ 4. The levying of money for or to the use of the crown,  
 “ by pretence of prerogative, without grant of parliament,  
 “ for longer time, or in any other manner than the same is,  
 “ or shall be granted, is illegal.

“ 5. That it is the right of the subjects to petition the  
 “ king, and all commitments and prosecutions for such peti-  
 “ tioning, are illegal.

“ 6. That the raising or keeping a standing army within  
 “ the kingdom in time of peace, unless it be with consent of  
 “ parliament, is against law.

“ 7. That the subjects, which are Protestants, may have  
 “ arms for their defence, suitable to their condition, and as  
 “ allowed by law.

“ 8. That election of members of parliament ought to be  
 “ free.

“ 9. That the freedom of speech, and debates or proceed-  
 “ ings in parliament, ought not to be impeached or que-  
 “ stioned, in any court or place out of parliament.

“ 10. That excessive bail ought not to be required, nor  
 “ excessive fines imposed, nor cruel and unusual punishments  
 “ inflicted.

“ 11. That jurors ought to be duly empannelled and re-  
 “ turned; and jurors, which pass upon men in trials for high  
 “ treason, ought to be freeholders.

“ 12. That all grants and promises, of fines and forfeitures  
 “ of particular persons, before conviction, are illegal and  
 “ void.

“ 13. And that for redress of all grievances, and for the  
 “ amending, strengthening, and preserving of the laws, par-  
 “ liaments

Interreg. 1689. "liaments ought to be held frequently. And they do claim,  
 "demand, and insist upon all and singular the premisses, as  
 "their undoubted rights, and liberties; and that no declara-  
 "tions, judgments, doings, or proceedings, to the prejudice  
 "of the people in any of the said premisses, ought in any  
 "wise to be drawn hereafter into consequence or example.  
 "To which demand of their rights, they are particularly en-  
 "couraged by the declaration of his highness the prince of  
 "Orange, as being the only means for obtaining a full re-  
 "dress and remedy therein.

"Having therefore an entire confidence, that his said  
 "highness the prince of Orange will perfect the deliverance  
 "so far advanced by him, and will still preserve them from  
 "the violation of their rights, which they have here asserted,  
 "and from all other attempts upon their religion, rights,  
 "and liberties; the said lords spiritual and temporal, assem-  
 "bled at Westminster, do resolve, That William and Mary,  
 "prince and princess of Orange, be, and be declared KING  
 "and QUEEN of England, France, and Ireland, and the  
 "dominions thereunto belonging, to hold the crown and  
 "royal dignity of the said kingdoms and dominions, to them  
 "the said prince and princess during their lives, and the life  
 "of the survivor of them; and that the sole and full exercise  
 "of their regal power be only in, and executed by, the said  
 "prince of Orange, in the names of the said prince and prin-  
 "cess, during their joint lives; and after their decease, the  
 "said crown and royal dignity of the said kingdoms and do-  
 "minions to be to the heirs of the body of the said princess;  
 "and for default of such issue, to the princess Anne of Den-  
 "mark, and the heirs of her body; and for default of such  
 "issue, to the heirs of the body of the said prince of  
 "Orange.

"And the said lords spiritual and temporal, and com-  
 "mons, do pray the said prince and princess of Orange, to  
 "accept the same accordingly. And that the oaths hereafter-  
 "mentioned, be taken by all persons of whom the oaths of  
 "allegiance and supremacy might be required by law instead  
 "of them; and that the said oaths of allegiance and supre-  
 "macy be abrogated:

"I, A. B. do sincerely promise and swear, That I will be  
 "faithful, and bear true allegiance to their majesties, king  
 "WILLIAM and queen MARY. So help me God. I,  
 "A. B. do swear, That I do from my heart abhor, detest,  
 "and abjure, as impious and heretical, this damnable doc-  
 "trine and position, That princes excommunicated or de-  
 "prived



“prived by the pope, or any authority of the see of Rome, Interreg.  
 “may be deposed or murdered by their subjects, or any other 1689.  
 “whatsoever.” And I do declare, That no foreign prince,  
 “person, prelate, state, or potentate, hath, or ought to  
 “have, any jurisdiction, power, superiority, pre-eminence  
 “or authority, ecclesiastical or spiritual, within this realm.  
 “So help me God,”

After the reading of this declaration, the marquis of Halifax, speaker of the house of lords, made a solemn tender of the crown to their highnesses, in the name of both houses, whereupon the prince of Orange returned the following answer:

“My lords and gentlemen, This is certainly the greatest  
 “proof of the trust you have in us, that can be given, which  
 “is the thing that makes us value it the more; and we  
 “thankfully accept what you have offered. And as I  
 “had no other intention in coming hither, than to preserve  
 “your religion, laws, and liberties, so you may be sure,  
 “that I shall endeavour to support them, and shall be willing  
 “to concur in any thing that shall be for the good of the  
 “kingdom, and to do all that is in my power to advance the  
 “welfare and glory of the nation.”

All this was followed with the acclamations of the people, which quickly flew over the whole city. The same day the prince and princess were proclaimed king and queen of England, France, and Ireland, by the names of WILLIAM and MARY, to the inexpressible joy of the people (e).

(e) I. King James the Second's natural issue was as follows.

1. By Mrs. Arabella Churchill, sister of John duke of Marlborough, afterwards married to colonel Godfrey, he had (1.) James Fitz-James, grandee of Spain, marshal of France, knight of the golden fleece, commonly called duke of Berwick. Outlawed in 1695. (2.) Henry Fitz-James, commonly called the grand prior, born 1673. Outlawed in 1695. Lieutenant-general and admiral of the French gallies. He died in France, December 7, 1702. (3.) Henrietta, born 1670, who married Henry lord Waldgrave, 1683. Father of James the present lord Waldgrave, born in 1684.

2. By Mrs. Catharine Sedley, daughter of Sir Charles Sedley, Bart. created baroness of Darlington, and countess of Dorchester, afterwards

married to Sir David Collier, the late earl of Portmore, he had Catharine Darnley, present duchess dowager of Buckingham, born 1681. She married (1.) James Annesley, earl of Anglesey, in October 1699. By whom she had Catharine Annesley, January 7, 1701, who married William Phips, Esq; son of Sir Constantine Phips. (2.) John Sheffield, duke of Buckinghamshire and Normanby, March 1, 1705. By whom she had Edmund the present duke of Buckinghamshire, born January 11, 1716.

II. By an indenture in the first of James II. a pound weight of gold, twenty-two carats fine, and two carats allay, was coined in 44l. 10s. by tale, namely, into ten shillings, twenty shillings, forty shillings, and five pounds, pieces; and a pound weight of silver of the old standard into 62 shillings

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shillings by tale, namely, into crowns, half-crowns, shillings, six-pences, groats, two-pences, and pence; which

standard both for gold and silver hath continued ever since.



The gold coins have on one side the king's head laureat, IACOBVS II. DEI. GRATIA. Reverse MAG. BR. FRA. ET. HIB. REX. the arms single in separate shields crowned, with the scepters, but nothing in the center. Some have an elephant under the king's head, being of African gold. (Fig.) The five-pound-piece is like the guinea, but has DECVS, &c. upon the rim.—Of the silver-monies, the crown has the king's head laureat; the arms on the reverse in four separate shields crowned; the inscription as

on the gold coins; and upon the rim, DECVS. ET. TVTAMEN, &c. the half-crown is the same, and the shilling and six-pence the like, except the inscription upon the rim. The lesser pieces, from the groat to the penny, have as many initial letters of his name crowned, as they contain pence, but the same inscription as the crown-piece. The tin-farthing and half-penny have the king's head, IACOBVS. SECVNDVS. Reverse Britannia, BRITANNIA, upon the rim 1685. NVMMORVM. FAMVLVS.





A  
**DISSERTATION**  
 ON THE

Rise, Progress, Views, Strength, Interests, and Characters of the two Parties of the WHIGS and TORIES. First published in the Year 1717.

**T**HOUGH the two parties or factions which divide England, have been long talked of, it is but of late years that all Europe, as I may say, is engaged in their quarrel. Before the last peace, foreigners generally looked upon the differences between the Whigs and the Tories, as a matter of curiosity, which no way concerned them. If any seemed to regard them, it was solely on account of the diversity of the opinions of the two parties, concerning the hierarchy or government of the Church. To this was confined the idea, which most private foreigners formed of the English divisions. I say, private foreigners; for princes and their ministers knew what influence they had in the political affairs of Europe, according as the one or the other party prevailed in the court or parliament of England; but, as for the people, it may be said, that in general, they knew not the consequences of them.

The peace of Utrecht has opened numberless eyes, because it is clearly seen to flow from the late revolution in the court of England, by the change of the Whig, into a Tory, ministry. As all Europe was engaged in the war, and consequently concerned in the peace by which it was terminated, those who before only talked of the English divisions, as of a foreign

foreign affair, are but too sensible of what consequence they are to other states. From that time this matter has been reasoned and disputed upon with more warmth. In short, most foreigners are become Whigs or Tories, according as they have believed to see in the two parties, principles agreeable or contrary to their interests. Though Whigs and Tories equally profess the Protestant religion, and though their differences seem not much to concern either Protestants or Roman Catholics, it has happened, that the Papists have declared for the Tories, and the Protestants for the Whigs. The reason of this proceeding is obvious, namely, that the one have considered the Tories as men labouring to set a zealous Popish prince on the throne of England, whilst the others have believed, that the preservation of the Protestant religion was the sole aim of the Whigs. There is yet another motive which has determined foreigners to side with one of the parties, that is, their inclination to France, or their fear of the ambitious designs of that crown. In this respect the adherents of France are Tories, and her enemies Whigs. Every one therefore has made a choice, without troubling themselves, otherwise, with the differences of the two parties. This conduct in foreigners is the less surprizing, since in England itself, many are Whigs or Tories, without having a distinct idea of the party they have embraced.

It is very strange, that hitherto the public has not been exactly informed concerning these two parties, which, by the superiority either may have in England, are in a capacity to influence the most important affairs of Europe. It is true, we have translations of several English books, or other pamphlets, upon this subject. But it is not from thence, that the true state of the affairs of the two parties may be learnt. These writings are published by Whigs or Tories, and consequently by authors visibly suspected. Accordingly, there is not one but what carries evident marks of the partiality of its author. It is therefore rather from a foreign pen, that we are to expect a fair account of this matter, though, to speak the truth, there are few foreigners but what either are not sufficiently informed, or are biassed to one of the factions. However, the author of this dissertation, though a foreigner, thinks himself qualified to give the public a more extensive knowledge of the two parties, than many people have hitherto had. He resided a long time in England, and has, many years, diligently studied the English history. Besides, he is attached neither by inclination nor interest to any one of the parties, and is now in a country where he has nothing to  
hope



hope or fear from either. His impartiality will evidently appear in the Dissertation itself. To give a distinct knowledge of the two parties, the author was unavoidably obliged to descend to many particulars of the English history, without which the rise and progress of these parties could not have been clearly explained. If the English think this Dissertation defective in some points, and too large in others, they are desired to remember, it was not penned for their use; that the author's aim was to confine himself to general ideas; in a word, that the things which pass for common and well-known in England, are mysteries abroad, and require a full explication.

It will perhaps be thought strange, that the author, who was born under a government purely monarchical, speaks in some places, so as it may be thought he approves not of such a government. To obviate this suspicion, he desires his readers to consider, that he could not speak pertinently of his subject, without assuming an English spirit, and conforming himself to the principles which are common in England. It is thus only that he believed he should be able to discover the strength and weakness of the two parties. All his reasonings are founded upon this principle, of the solidity of which he is perfectly convinced; 'That every private person is in conscience obliged quietly to submit to the government established in the country where he was born, or providence has placed him.' Wherefore it is his opinion, that all secret practices, all cabals, all means, direct or indirect, tending to the dissolution of such government, are so many crimes, for which the authors are responsible to God and their superiors.

**T**HE government of England is of a particular kind, of which there is not the like at present in all the world. It is, however, the same which was formerly established in all the kingdoms of Europe, formed out of the ruins of the Roman empire. The present difference between England, and other states, in this respect, is owing to this, that the English have preserved the form of their government ever since their settling in Great Britain; whereas in other nations, it has been lost by degrees, or extremely altered. This government, which has so long subsisted in this island, appears, in some respects monarchical, in others, republican; and yet, properly speaking, it is neither. It cannot be called purely monarchical, since the nobility and the people have a share in the legislative power jointly with the king,  
nor

nor can the king impose any tax, without the people's consent. Neither is it republican, since there is a king, who exercises the sovereign authority, who disposes, as he pleases, of all places and dignities ecclesiastical, civil, or military; and can make peace or war, without consulting his subjects. It would be therefore in vain to pretend to describe this government, by the usual names of Monarchy, Aristocracy, Democracy, which agree not with it. It is a mixed government, differing from, and yet composed of, all three. The prerogatives of the sovereign, and the privileges of the nobles and people, are so tempered together, that they mutually support one another. At the same time, each of the three powers, concerned in the legislature, may insuperably obstruct the attempts of one or both the others, to render themselves independent. In short, it is very near the same form of government, established by the Saxons in Germany, by the Franks in Gaul, by the Visigoths in Spain, by the Ostrogoths, and after them, by the Lombards in Italy. These northern nations introduced this government into the most southern parts of Europe, when they settled there, and founded new states upon the ruins of the Roman empire.

If, therefore, it be asked, How long this government has been in England? I shall not scruple to answer, Ever since the Anglo-Saxons finished the conquest of that part of Great Britain, which their descendents possess to this day. It is true, a doubt may arise, whether the commons, in the time of the Anglo-Saxons, were part of the parliament; and I confess this point is hard to be determined. But, however, when England was divided into seven kingdoms, English and Saxons, each of these had its king and parliament. This last was called the 'wittena-gemot,' or 'assembly of wise-men;' and there was also the like for the common affairs of the whole Heptarchy. This same form of government subsisted, when the seven kingdoms were reduced to one and the same state. 'The fields of Mars' [March] or of May, called since the States-general in France, the Cortes in Spain, and perhaps the Diets of the German empire, are the remains of this ancient form of government, introduced by the northern nations, wherever they settled.

William, duke of Normandy, surnamed the Bastard or Conqueror, having subdued England in 1066, became absolute, and established a despotic power, though, in all likelihood, he preserved the shadow of a parliament. To secure his conquest, he transplanted many Norman, French, Breton, and Angevin families, enriching them with the lands,  
of



of which he incessantly dispossessed the English. These transplanted families multiplied greatly in a short space, and became in the end so powerful, as to make head against their sovereigns, successors of the Conqueror. At first, they gloried in their entire dependence upon the king, who had put them in possession of their lands. Their interest required, that they should support that power by which they held all their English possessions. But when they were once firmly settled, they began to dread, that the regal power, which had enriched them, might with the same ease strip them of their estates, if the king should so please. For this reason, they wished the government restored to the same state, as in the times of the Saxon kings. This was the only means to avoid the inconveniencies of an arbitrary power, (which might, in time to come, turn as much to their prejudice, as it had to their advantage) and to perpetuate the possession of their lands. What at first was only a bare wish, soon rose into hope, and at last into right, by the methods I shall presently speak of. To explain this fully, a large detail of the English history would be necessary, and a particular enumeration of all the causes which have contributed to put the nobility, and afterwards the people, in possession of a right, which they did not enjoy, under the first Norman kings. But as this detail would lead me too far, I shall content myself with a short abridgment, concerning the subject in hand.

William the Conqueror, in 1087, left the kingdom of England to his second son William, surnamed Rufus, in prejudice of Robert his eldest son, who had only Normandy. Robert made some attempts to dispossess his brother of a crown, of which he believed himself unjustly deprived. But Rufus defeated them by his address, engaging as well the Normans as the English in his interest, with promises of re-establishing the ancient government, and reviving the Saxon laws. He knew that both were passionately desirous of what he made them hope. By the Normans, I mean here the foreigners newly settled in England. This promise of Rufus was therefore the first foundation of their pretensions. I say the first, for the Normans had no right to demand of the king what he was pleased to promise them, and the conquered English had as little, to limit the power of their conquerors. It is true, the English might ground their pretensions upon some general promises made them by William the Conqueror, when he received their first homages. But this prince never pretended that they should found a right on these  
these

these promises. Accordingly, he always treated England as a conquered nation. However, Rufus kept his word with neither Normans nor English.

Upon his death, Henry I, his younger brother, ascended the throne in 1100, in prejudice of his eldest brother Robert, still alive. To secure his usurpation, he pursued the same course as his predecessor Rufus. He promised to restore the ancient government, and confirmed his promise by a charter in form, but executed it no better than his brother. However, the rights of the subject received strength from these promises, though ill performed.

Henry I. dying, Maud, his daughter, widow of the emperor Henry V, and wife to Jeffery Plantagenet, earl of Anjou, ought to have mounted the throne; but in 1135 was defeated of her right by Stephen, earl of Boulogne, son of the Conqueror's eldest daughter. He bound himself more strongly than his two predecessors to restore the Saxon laws, but in all appearance with as little intention to perform his engagements. At last, the great men, finding he sought pretences to evade his promises, harrassed him with a war which lasted the most part of his reign. In the beginning, they called into England the empress Maud, and her son Henry by the earl of Anjou; and the war ended in a treaty, which secured the crown to Henry after Stephen's demise, though he had sons.

To Stephen, in 1154, succeeded Henry II. During his reign, and that of his eldest son Richard I, there were no contests between the king and the barons, for so the great men of the kingdom were then called. But very considerable disputes arose in the reign of king John, surnamed Lackland, brother and successor of Richard I. An unhappy quarrel between this prince and the court of Rome, having forced him to do homage to pope Innocent III. for his kingdom, and bind himself to pay him tribute, this dishonourable proceeding, added to many other causes, lost him the esteem and affection of his subjects. The barons improving so favourable a juncture, presented to him the charter of Henry I, which had never been executed, and resolved to oblige him to confirm it. John at first rejected it with great haughtiness, but at last compelled by his own weakness, and the united opposition of almost all the barons, he was obliged to grant them a charter, much more ample and advantageous to the subject, than Henry the First's, and which was called Magna Charta, or the Charter of Liberties. By this charter, drawn as the barons pleased, the king's power was so curbed,



curbed, that it was in a manner reduced to the same state as under the Saxon kings before the conquest. This charter has been ever since the principal foundation of the rights of the subjects. I shall not here pretend to decide a question so much above my reach, whether this foundation is very solid. It will suffice briefly to remark, by what means a concession seemingly so defective in its origin, since it was evidently extorted, changed, as I may say, its nature by the firmness of the English, and acquired an indisputable authority, though it might have been contested at first. To this end, we must see what passed afterwards with respect to this charter.

King John, who had signed it, desiring to revoke it, drew upon himself fresh misfortunes, which lasted as long as he lived. The barons, resolving to adhere to their charter, took at last the desperate course to call in to their assistance Lewis, son of Philip Augustus, king of France, and to put him in possession of all, or the greatest part of the kingdom. John died during the war, deprived by a foreign prince, or rather his own subjects, and left a son of ten years of age, little capable to maintain the quarrel. Some lords, who had remained faithful to the late king, appointed the earl of Pembroke regent, during the minority of the young prince, who was recognized by his few adherents by the name of Henry III, in 1216.

Shortly after the face of affairs was changed by the prudent conduct of the regent, who, seeing the barons bent to support their charter, promised positively, it should be confirmed and executed. Upon this assurance, they deserted prince Lewis, who was obliged to return to France.

Henry III. was no sooner out of his minority than he repealed Magna Charta, and thought of reigning uncontrouled. But, as he had not a capacity equal to such an undertaking, his long reign of fifty-six years was one continued scene of troubles on account of the Magna Charta. He was frequently forced to confirm it, and as often broke all his oaths and engagements. At last, the barons took arms under the conduct of the earl of Leicester, son of the famous Simon Montfort, general of the crusade against the Albigenes. The king had the misfortune to lose a battle, and to see himself, his brother the king of the Romans, and his son prince Edward, in the hands of the earl of Leicester, who obliged them to swear, they would never oppose the execution of Magna Charta. The earl of Leicester governed some time in the name of the king his prisoner. It is pretended, the commons were first received into parliament during his administration.

But, without staying to examine so difficult a question, I shall only observe, that at least it cannot be denied, that since the end of Henry III's reign the commons have ever enjoyed this privilege.

Prince Edward, son of Henry III, having happily made his escape from the earl of Leicester, gained a battle in which the earl was slain. This victory restored the king to his liberty, who used it not agreeably to the oath he had been obliged to take. But his reign and life ended a few years after his deliverance. Though the barons party was very much humbled, yet Edward I, who in 1272 succeeded his father Henry III, confirmed Magna Charta. However, some steps taken by him afterwards, discovered a design to revoke it; but the barons beginning to stir, he retracted, and confirmed it once more.

Edward II, his son and successor, in 1307, was deposed by the parliament, for intending to establish an absolute power contrary to Magna Charta.

Edward III, son and successor of this unfortunate prince, in 1327, confirmed it ten times during the course of his reign, which the victories obtained by himself and his son the prince of Wales, over France, rendered extremely glorious.

Richard II, grandson and successor to Edward III, in 1377, was solemnly deposed, for having violated in many instances the privilege of the people, founded on Magna Charta.

Henry IV, who had used that pretence to dethrone Richard II, in 1399, and put himself in his place, made some attempts to diminish the privileges of the parliament; but did not carry very far the execution of this project.

Henry V, his son, who succeeded him in 1413, maintained the parliament in all its rights, and left the privileges of his subject untouched. His reign was one continued series of victories, and successes against France. He died in 1422.

From that time the government of England remained so well settled, and so firm upon its foundations, I mean, the prerogatives of the king, and the privileges of the parliament, that for near two hundred years, not one king appears to have had any intention to shake it. The policy of the kings turned wholly upon governing their parliaments by secret intrigues, without discovering any desire of altering the constitution. True it is, that some kings, as Henry VIII, did what they pleased, but without any prejudice to the privileges of parliament. On the contrary, by supporting the parliament in its rights, they had the address to make it subservient



venient to their ends. This, by the way, is the best, and perhaps the only method, for a king to render himself powerful and easy.

After so long a continuance of the same form of government, and so uninterrupted a possession of the privileges of Magna Charta, the English nation was so accustomed to it, that it seemed impossible to make any alteration without throwing the kingdom into confusion. Nay, it seemed there was no fear that any king should ever think of attempting so difficult a thing, at the hazard of his crown, as had been the case of some former kings. Notwithstanding all this, James I. successor to queen Elizabeth, in 1603, failed not to take some steps in this dangerous course, and endeavour to diminish the privileges of parliament. It was by the pernicious counsels of the duke of Buckingham, his favourite, that he engaged in this design, which probably would have ended unfortunately for him, had not death surprized him before he had plainly discovered his intention. This duke of Buckingham ought to be considered as the first author of the troubles, which have so long infested England, and still do infest it to this day.

It was under Charles I, son and successor of James, in 1623, that the project to render the king absolute, and independent of the laws, was vigorously pushed and advanced by all methods. The duke of Buckingham, favourite to Charles I, as he had been to his father, inspired him with maxims directly contrary to the established government, and thereby occasioned his ruin. The duke being assassinated, the design was pursued by Charles, which had been begun by the deceased favourite. He imagined, the nation might be governed without a parliament, or at least that parliaments were only to supply him with money. He had dissolved three in the four first years of his reign, and even signified his intention of calling no more. Twelve years passed without a parliament, during which the king levied taxes by the bare act of his will, upon his subjects, and by his conduct discovered a design to reign arbitrarily. Unhappily for him, he admitted to his person and council two men imbued with the same maxims, by whom he was pushed on to his ruin; namely, William Laud, archbishop of Canterbury, and Thomas Wentworth, earl of Strafford.

While this prince had no difficulties to struggle with from abroad, he enjoyed his usurped power with some tranquillity, but not without the open murmurings of the people. Mean time, no person dared to oppose so violent a torrent. At last,

the archbishop of Canterbury advising him to finish the restoration of the Scotch hierarchy, and introduction of the English liturgy, he followed the pernicious advice, but could not execute his project, without engaging in an open war in 1639, with his ancient kingdom of Scotland. He levied forces, and maintained them by taxes, which he himself had imposed. Money failing him after the first campaign, he at last, in April 1640, called a parliament, which was dissolved in a few days, for the same reason as the three first, and the arbitrary impositions continued as before. But the king quickly perceived, that the continuation of his power, depended upon the happy success of his arms. The people served him with regret. The lords, on divers pretences, withdrew from court. The validity of his orders, by virtue whereof his impositions were levied, were contested in town and country. In short, the king saw his subjects every where ready to desert him, on the first occasion.

This occasion presented itself sooner than he expected. His army having received a check, and the Scots surprized Newcastle, the king was forced to seek means to drive them out of England, whereas he had hoped to become absolute in Scotland. But instead of finding his English subjects ready to assist him, he saw them on the contrary, rejoice at his disgrace, and considered it as a proper opportunity to recover their privileges. In this extremity, he assembled the peers at York, in order to advise with them upon what was to be done. Their unanimous opinion was, that the only way to free himself from the present difficulties, was to call a parliament. He then perceived, that an interval of fifteen years was not capable to efface out of the minds of the English, the memory of their parliaments, which they looked upon as the strongest support of their liberties. Mean while, he was under a sort of necessity to follow the advice of the peers, in calling a parliament (a).

In the present disposition of the people to the king, such representatives were chosen, as were eminent for their ability, courage, and firm attachment to the privileges of the subject. The parliament being met, instead of thinking to drive the Scots out of the kingdom, as the king had hoped, believed they ought, before all things, to secure the liberties of the nation, by setting bounds to the illegal authority, which the

(a) For the 13th of November 1640. Before the peers met, he knew they would be for calling a parliament; and so, for his own honour, proposed it first. Rapin.



king had for fifteen years assumed. This resolution was no sooner discovered, than all the people adhered to the parliament. From that time the king was so destitute of friends, that he saw himself unable to resist the torrent. His only refuge was, to comply with his parliament, and pass almost every bill presented to him to curb his authority. He hoped, by this condescension, to convince his subjects of his intention to return to the ancient course from which he had been diverted by evil counsels, and ~~perhaps~~ he really designed it, but could gain no belief. On the contrary, it was thought, that mere necessity obliged him to measures so opposite to the former. So, mutual confidence, so necessary between the king and his people, being entirely lost, the parliament would no longer depend upon the sincerity of a prince, whom they believed they had just cause to distrust. They therefore incessantly laboured to secure the liberties of the subject from any future invasion. To this end, they were not satisfied with obtaining the king's consent to acts which reduced the royal power within its ancient limits, but also extorted his assent to laws, which considerably lessened the just prerogatives of the crown. The friends of the parliament scrupled not to affirm, that the subject could never be secure in his property, while the king had power to return to his former courses. Thus king Charles, who had hoped to carry the royal authority higher than any of his predecessors, saw himself, on the contrary, deprived of great part of his legal power. He even had the mortification to see himself forced, in May 1641, to sign the earl of Strafford's sentence, who had acted nothing without his orders, or at least his approbation. The archbishop of Canterbury also, lost his head on the scaffold in 1644.

Had the parliament contented themselves with settling the government upon its ancient foundations, very probably, it would not afterwards have been easily shaken. But on such occasions it is difficult to keep a just medium. The leading members, willing to screen themselves from the attempts of the royal power, almost entirely changed the ancient constitution, by stripping the crown of the best part of its prerogatives. It was no longer the king and parliament which governed the nation, but the parliament alone, or rather the house of commons, managed all affairs. The house of peers had scarce any other power, than that of an implicit assent to the bills offered to them, and the king was but the shadow of a sovereign. However, it was this very thing that procured him adherents, whom, doubtless, he would never have had,

the balance had been kept even. Many thought it as strange that the parliament should, as I may say, govern without a king, as that the king should attempt to rule without a parliament. The constitution of the government suffered equally by both usurpations. But that which brought the strongest accession to the king's party, was, that the parliament, to gain the Scots to their interest, were possessed with the project, of changing the Episcopal government of the Church, into Presbyterian, which they accomplished with open force. Most of the English, accustomed to see the Church under the direction of bishops, could not bear this change without murmuring. But as these were not the strongest, because the parliament had the treasure, army, and places at their disposal, their only refuge was to unite with the king. Then it was that two parties appeared in the kingdom, one for the king, and one for the parliament, with a sort of equality, which quickly made it thought, they would not long remain quiet, and without coming to arms. The king's adherents at first had the name of Cavaliers, which was afterwards changed into that of Tories: And those of the parliament, then called Roundheads, have received the name of Whigs. The origin of these two famous distinctions is this: At that time a sort of Irish Banditti, or robbers, who kept in the mountains and isles formed by the vast bogs of that country, were called Tories, and at present are known by the name of Rapparees. As the king's enemies accused him of favouring the Irish rebellion, which broke out about that time, they gave his adherents the name of Tories. These, on the other hand, to be even with their enemies, who were closely united with the Scots, called them Whigs, a name of reproach used in Scotland (b). Hence it appears, that these two names are as ancient as the troubles, though they were not in vogue till many years after. I cannot precisely fix the time, but am of opinion, that Cavalier and Roundhead continued till the restoration of Charles II, and then, by degrees, were changed into Tory and Whig. These are the two parties which began to divide England in the time of Charles I, and which still divide it to this day. The Roman Catholics, called Papists in England, joined, from the first, the king's party,

(b) Rapin by mistake says, they were so called from certain robbers in Scotland. But Burnet tells us the name is derived from the word Whiggam, used

by the western Scots in driving their horses, from whence those drivers were called Whiggamors, and, by contraction, Whiggs, p. 43.

which



which was more favourable to them than that of the parliament, and have always remained united with the Tories.

What has been said, sufficiently shews, that the king's party was composed of two sorts of men, of which the one had principally in view the political interest of the king and the crown, and the others, that of the Church of England. But they were all re-united in this point, that they found their mutual advantage in the king's prosperity, without which they could not hope to succeed in their respective designs. For this reason, they were considered but as one party, under the same name of Cavaliers or Royalists. This mixture of two different views in the same party, subsists to this day, and is not one of the least causes of that confusion of ideas, which the word Tory occasions. To remove this ambiguity as much as possible, I shall call the first, the Political or State Cavaliers; and the others, the Ecclesiastical or Church Cavaliers. Each of these two branches were again subdivided. For among the Political Cavaliers there were some, who following the maxims of the duke of Buckingham, archbishop Laud, and the earl of Strafford, wished to see the king invested with absolute power, and able to destroy the privileges of the parliament. These may be called the rank Cavaliers. Their number was small, and little capable to support the king in his adversity, though, during his prosperity, they made a great noise. The other branch of the Political Cavaliers, was composed of men whom I shall call moderate. These desired indeed the restoration of the royal authority, but according to the antient constitution. The other Cavaliers, whom I call Ecclesiastical, were also subdivided into two branches, one of which was composed of rigid Churchmen, who were against the least change in the discipline of the Church of England. Those who composed the other branch, were less scrupulous and obstinate, and may be called the Low or Moderate Churchmen.

In opposition to the Cavaliers or Royalists, the Roundheads, or Parliamentarians, were divided into two principal branches, namely, the Political and Ecclesiastical. The first had principally in view, the maintenance of the rights of the people; and the second, the advancement of Presbytery. Each of these branches were likewise subdivided into two; one whereof was composed of Republicans, who aimed at undermining the regal power, and erecting a commonwealth; the other, of the Moderate Roundheads, or

## A DISSERTATION ON

Parliamentarians, desired only to reduce the king to an incapacity of abusing his power, by leaving him the possession of his just rights. This relates only to the Political Round-heads, or Parliamentarians. As for the Ecclesiastical, they also formed two branches, of which the first was composed of the rigid Presbyterians, who would be contented with nothing less than the destruction of the Hierarchy; and the other, of the moderate Presbyterians, who would have been satisfied with much less, and perhaps, with a bare toleration. It was absolutely necessary to premise thus much, in order to enable the reader to understand the sequel of this Dissertation. I shall more largely speak of the views and interests of the different branches of the two parties, after I have finished the abridgment which their rise obliged me to interrupt.

Whilst the king was in a deplorable state, without money or friends, and reduced to bear every thing from the parliament, who had him, as I may say, at their mercy, he beheld a ray of hope shine in the rise of the two parties I have been speaking of. He thought immediately, that to foment the division could not but be advantageous to him, wherein he succeeded. He thereby saw himself at last in a condition to hope to do himself justice by his arms, for the injuries of which he thought he had reason to complain. In this expectation he raised an army, and engaged in an open war against the parliament, who on their side had now taken all the necessary measures to resist him.

The particulars of this war are needless here, since the sad conclusion of it is still recent. It will suffice to say, that Charles I was vanquished, and beheaded the 30th of January 1648. Thus the king himself, the duke of Buckingham, the earl of Strafford, and archbishop Laud, authors of the project to render the king absolute, came all to a tragical end. If to these we add, the examples of king John, Henry III, Edward II, Richard II, and lastly, of James II, who had all the same design, and all miscarried in the execution, it will be easy to see how difficult and dangerous it is for a king of England to attempt to subvert so well cemented a government.

Oliver Cromwell, author of Charles I's death, remained master of the government. He durst not, however, assume the title of king; and if he had the address to render himself absolute, it was under the specious pretence of maintaining the nation's liberty. He is the single instance in  
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England, of an usurper dying a natural death in his usurpation.

While the sovereign authority was in Cromwell's hands, the Cavaliers were extremely humbled. But they revived on the death of this formidable enemy. To give their adversaries no advantage against them, they put themselves under the conduct of those of their party, who were the most moderate, so that there seemed to be no more rank or rigid Tories. This policy was absolutely necessary, at a time, when the royal prerogative and the rights of the Church were not to be insisted on, as there were neither king nor bishops. At last, by a most surprizing revolution, assisted by the prudent conduct of general Monk, the English united to set Charles II on the throne, son of the deceased king, and to restore the Monarchy and the Church to their former state.

Charles II reigned peaceably at first. He was a prince who wanted neither wit nor penetration, but was indolent, and addicted to his pleasures. His intention was to live quietly, and avoid all disputes with his subjects. He was too weary of a long exile, during which he had often wanted common necessaries, to be willing to hazard the being again reduced to the same state. On the other hand, the English had had time, and frequent occasion, to open their eyes, and discover, that by a pretended maintenance of their liberties, they had been drawn into servitude. For it may be affirmed, that England had never enjoyed less freedom, than under the government of the long parliament, and afterwards of Oliver Cromwell. However, Charles II engaged himself by degrees, farther than he ever intended. This, doubtless, was owing either to his indolence, or too great condescension to his ministers, who were all Cavaliers, whom, for the future, I shall call Tories, as I shall give the Roundheads the name of Whigs, though I do not know exactly when these two names were first used. The Tories therefore, who alone were in the king's confidence, were incessantly urging him to restore the Monarchy and Church to their ancient lustre. The court of France, for interests of their own, laboured to inspire him with the same design. In a word, his ministers took great care to hinder the Whigs from insinuating themselves into the king's favour.

The Tory party had at their head the duke of York, the king's brother, a prince naturally impetuous and violent; who having embraced the Roman Catholic religion in his exile, formed the project of establishing it in England. This  
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project could not be executed, without first extending the royal power beyond the bounds prescribed by the law, that is to say, without resuming and pursuing the same design, wherein his father had unhappily miscarried. But the duke, by reason of his impetuous temper, was very improper to conduct such an undertaking. He pursued it eagerly during his brother's reign, who had no legitimate issue, hoping that the work then begun, would be more easy to finish on his own accession to the throne.

To succeed in this design, he had no other way than to begin it with the utter ruin of the Whigs, whose principles were directly contrary to the duke's designs, both with regard to the Church and the state. It must be observed, that most of the Whigs were then Presbyterians. So, in pretending only to attack Presbyterianism, the duke of York projected the destruction of those who opposed the increase of the regal power, without alarming the nation. Indeed, after humbling the Whigs, he might fear to meet with great obstacles from the moderate Tories, whose principles did not entirely agree with the arbitrary power he intended to establish. But he despaired not to surmount, if the Whigs, his more dangerous enemies, were once removed out of the way. To this end, he induced his brother to persecute the Presbyterians, wherein he was assisted by all the Tories, who with pleasure beheld this first occasion of being revenged on their enemies, the Whigs. So Presbyterianism was furiously attacked, under pretence of restoring the Church to the state it was in before the troubles. An act was passed, forbidding the Presbyterian assemblies, which were called Conventicles; and another, known by the name of the Test-Act, which indeed more directly concerned the Roman Catholics. This act ordained, that no person should be admitted to any public office, without producing a certificate of his having communicated in an Episcopal church. Moreover, it was called the Conformity-Act, because all who were to be admitted to any office, were obliged by this statute to conform to the Church of England.

The Whigs soon perceived, that under colour of maintaining the rights of the Church of England, the duke of York's design was to change the government of the state, and ruin the Protestant religion in England. It required some time to take just measures; and at last, with the assistance of the moderate Tories, who feared the duke of York's going too far, they obliged the king to send him out of the kingdom. Nay, the commons prepared a bill, called the  
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Exclusion Bill, to deprive him of the right of succession. But the passing of this bill was prevented by the dissolution of the parliament. Another was called at Oxford, in expectation of finding the members less violent. But the king was mistaken, and, after a short session, was again obliged to dissolve them, upon their endeavouring to pass the like bill.

It will perhaps seem strange, that the scene should be thus changed, and the Whigs, who were extremely low, should suddenly become superior. To let the reader into the reason of this change, it is necessary to remark, that the moderate Tories promoted the designs of the court, while they believed them levelled only against the Presbyterians. But perceiving, by all the proceedings of the king, the duke of York, and the ministers, that a project was formed to ruin the constitution of Church and State, and undermine the foundations of Magna Charta, they readily joined with the Whigs to oppose the execution of this project. It was therefore this union which gave the Whigs a superiority, to which, otherwise, they could never have pretended. On the other hand, the state Tories and rigid Churchmen, desiring to recover the ground they had lost, endeavoured to gain the people to their interest, by accusing the Whigs of a settled design to ruin the Church; and these in their turn accused the others, of intending the subversion of the government, and of favouring the duke of York's pernicious designs. Thus the enmity of the parties, which seemed to have been much weakened by the restoration, was revived. It may be truly said, that the Tories were in fault, who, to revenge the wrongs received from the long parliament and Cromwell's usurpation, rashly threw themselves into the duke of York's party. They afterwards repented, when they saw to what the duke intended to make them subservient.

Some time after, the minds of the people being a little calmed, the duke of York returned into England, and continued, without interruption, to foment division, without which he could not hope to effect his designs. So this prince (by an excess of zeal for his religion, by a desire of revenge, and perhaps excited by the ambition of accomplishing a project, which had been in vain attempted by several kings of England) and Charles II, through a too great condescension to his brother, kindled a flame in England, which is not yet extinguished.

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Charles II died during these transactions, and the duke of York ascended the throne, by the name of James II, without any opposition. He at first made great promises to his subjects, that neither religion, nor the constitution, should suffer any change in his reign. But he was far from performing his promises. Shortly after, the duke of Monmouth, natural son of Charles II, relying on the discontent of the people, left the Low-Countries, where he had lived some time in exile, made a descent in England with a handful of men, and assumed the title of king. But his royalty lasted but few days. His party being much weaker than he had expected, he was defeated, taken, and beheaded. The king was so elated by a victory, obtained with such ease, that he scrupled not to discover his designs, so secure did he think himself of the success. The judges, who were devoted to him, gave their opinion, that the king might dispense with the laws. Their decision was founded upon some statutes lodging this power in the sovereign, with regard to certain laws, and upon examples of some of his predecessors, who had, in this respect, exceeded the bounds of their power. Thus these corrupted judges drew from particular cases a general conclusion, and founded a permanent right upon some transient usurpations.

This door being opened, the king, by his sole authority repealed the penal laws, enacted by several parliaments to prevent the designs of the Papists. He next filled his army with officers of that religion, and bestowed preferments and titles upon men, who by the laws were unqualified. He took away the charters from London, and other corporations, and reduced them to a dependence upon his pleasure. In short, by a bare proclamation, he granted a full liberty of conscience, and permitted to each sect the public profession of their religion. This proclamation had a double view, to favour the Papists, and to amuse the Presbyterians. The king was persuaded, that as the latter were still liable to the penal laws enacted against them in the late reign, they would be glad to be freed from them, and that the fear of forfeiting the liberty granted by the proclamation would keep them in submission. But they were not deceived by an artifice directly tending to their ruin. I omit many other steps taken by the king, which were but too capable to fill all his subjects with terror.

Hitherto the Tories in general had favoured the king's designs. But when they perceived, all his proceedings tended to a subversion of the established government, and ruin of the



the Protestant religion, they began to repent of their past conduct. They clearly saw, that by the course they were made to take, it was intended to lead them where they designed not to go, and that they could not attain their end, the ruin of the Whigs, without the loss of their religion and liberty. In this danger, which could not be more imminent, they joined the Whigs, and with them, resolved to call in the prince of Orange to free them from their dangerous state. From that time the king's party became extremely weak, being composed of only Papists, rank Tories, and some lords, slaves of the court, and their fortune. Meanwhile, the king appeared outwardly as powerful as ever, and near the end of his undertaking; because those who yet seemed attached to the court, did not think proper to declare before the time. The prince of Orange was landed before the king's weakness was visible. His army, his fleet, the lords whom he thought most devoted to his person, forsook him at once, and he was reduced to the sad necessity of trying, in a disguise, to escape out of his kingdom. But failing even in this attempt, he had the mortification to see himself at the mercy of the prince of Orange, and, in all appearance, indebted to his generosity, or perhaps his policy, for the indirect means which were furnished him, of flying into France. This example shows, that though the English are divided into two parties, and there is great enmity between them, their passion does not however cause them, in general at least, to abandon the interests of religion and liberty.

William and Mary being crowned, on the flight, or, as it was called, the abdication of king James, their chief care was to stifle the seeds of division still subsisting between the Whigs and Tories, though the danger had united them. In order to this, it was necessary to remove from the ministry and their confidence, the favourers of king James's designs, and the bigots to the minutest rites and ceremonies of the Church of England. Without this, the Whigs could never have enjoyed any quiet, since they ever considered the rank and rigid Tories, as their irreconcilable enemies. On the other hand, it was not less necessary to remove from the council the most rigid Whig Presbyterians, for fear of giving occasion to think, there was a design to change the Church-government. This fear would have been the most just, as the new king having ever professed in Holland the Presbyterian religion, the least step in its favour, might have raised a suspicion, of his designing to establish it upon the ruins of  
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the national Church. Great address was therefore to be used to remove all cause of fear and jealousy in the Tories. It was for these purposes; that during the reign of William and Mary, the offices were generally conferred on the moderate men of both parties. This maxim was pursued by king William when he reigned alone, after the queen's death. But as it was impossible to please both parties at once, unless there had been more places to give, he affected frequently to change his ministry, and employ the two parties alternately. This was all he could do, till time should have extinguished entirely the flames of division.

Under such circumstances, and a king of such wisdom and foresight, it may be almost affirmed, that no disturbance would have happened to the government from the difference of the principles of the two parties, if the Church-Tories could have been contented with seeing their Church remain established. But they could not be satisfied, so long as they saw the Presbyterians enjoy an entire liberty of conscience, publicly exercise their religion, and fill offices, contrary to the conformity-act of king Charles II. They were jealous that the Whigs intended by degrees to undermine the Church, and that the king concurred with them in that design. What they had seen during the long parliament gave them occasion to fear the same attacks. The rank Tories, having lost king James, their patron and defender, inspired the Episcopal party with these fears and jealousies, to animate them against king William. They perceived, they were no longer able to support themselves, unless means were found to engage the Church in their quarrel. Hence the rumours industriously spread among the people, of the Church's being in danger. The Whigs saw by this, that the rank Tories had not relinquished their projects, but would, whenever they were armed with power, make use of the pretence of religion to ruin them, in imitation of king James. It was thus, that animosity was continued between the two parties, notwithstanding king William's care and endeavours.

It seemed therefore, that religion was then the sole point in question between the two parties; the junctures not allowing either the rank Tories, or the republican Whigs, to push their principles. This has given occasion to a false idea of the differences between the two parties, and to an imagination, that they solely consist in a diversity of sentiments concerning Church-government. But this is certainly a mistake. When an opportunity offers, the rank Tories show, that the safety of the Church is not the sole motive of their conduct,  
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and probably the republican Whigs would also remember their maxims, at a favourable juncture.

As to the Papists, who may be considered as a branch of the Tories, they would have had reason to be satisfied with king William's moderation, if their extreme desire to see king James again on the throne, had not caused them to look upon the reigning king as their enemy. Some of them were even engaged in conspiracies against his person, which only turned to their own confusion and ruin. This immoderate desire expressed by the Papists, and even by some Tories, for the restoration of king James, obliged king William to seek means, not only for the prevention of their ill designs during his life, but also to render their endeavours fruitless after his death. Accordingly, by an act of parliament, the succession of the crown was settled in the illustrious house of Hanover, without any regard to the pretensions which birth or nearness of blood could give to any Papist whatsoever. William died shortly after, and Anne, daughter of James II, and princess of Denmark, mounted the throne.

This queen had been educated in the principles of the rigid Tories with respect to religion, and, probably in those of the rank Tories, with regard to government. At least, all who had any power over her, or were concerned in her education, were of this character. Charles II, her uncle, James II, her Father, the earl of Rochester, her mother's brother, were all rank Tories, deeming any opposition to the sovereign's will, a manifest rebellion. Queen Anne was besides of no great capacity, and naturally obstinate. An accidental quarrel with her sister Mary, having made her resolve to withdraw from court, she was so punctual to her resolution, that she would not even visit the queen her sister, when on her death-bed. The meanness of her genius foretold the power which her ministry would have in the government. On the other hand, her education made it feared, she would be guided by the rank and rigid Tories, of whom her uncle, the earl of Rochester, was considered as the head. This lord was equally dreaded by the Whigs and moderate Tories, as a dangerous man, and capable of carrying things to extremities. He was otherwise a person of great parts, but very fond of his principles. Probably, he was going to be at the helm of the government, by the accession of the queen, his niece, to the throne. But it is pretended, that the fear of the moderate Tories, to see him in so high a post, made them resolve to join with the Whigs, to prevent it. At least it is certain, that such an union was made, which forced the queen

queen to throw herself into their arms, and trust them with the management of affairs. I am a stranger to the intrigues used to bring the queen to these measures. The lords Godolphin, Marlborough, and some other leaders of the moderate Tories, were among those who joined the Whigs, and strengthened them more by their ability than their credit and numbers. From this time, the moderate Tories and the Whigs made but one party.

It is needless to relate here, with what glory to England, and to the queen in particular, these new ministers directed the public affairs. This is a thing universally known, and the memory of it still recent. But it is pretended, that by reason of the meanness of the queen's genius, they held her in a kind of servitude, though they outwardly affected to give her the honour of all her glorious successes. During their administration, the rank and rigid Church-Tories were excluded from all civil employments, and ecclesiastical dignities. Had this continued to the death of the queen, these two branches of the Tory party would doubtless have been considerably lessened in number and credit.

Mean time, the queen saw herself, not without some impatience, forced, as it were, to follow the counsels of those whom she had a right to command, and who, if public report is to be credited, left her not free to pursue her own inclinations or judgment. The rank Tories perceiving, or perhaps suggesting these sentiments to the queen, industriously cherished her discontent, by the assistance of a certain lady, who was in her confidence. Such was their success, that after they had satisfied her, that she was a slave, they brought her to a resolution of freeing herself. This intrigue was conducted with such art and secrecy, that her ministers found themselves supplanted, before any measures could be taken to prevent their ruin. Immediately, their places were filled with rank and furious Tories. The parliament, in which the Whigs had a great superiority of votes, was dissolved, and another called, to which the new ministers took care to have members returned devoted to their party. Any person, ever so little acquainted with the affairs of England, knows what influence the court has in the elections. It may, however, be affirmed, that in respect of number, the party of the ministry was still inconsiderable. But they had the queen and the parliament on their side. Besides, they were very careful to strengthen their party, by infusing jealousies on the account of religion, and persuading the Episcopalians, that the Church had been in great danger, during the late administration,



stration, and would always be so, as long as the Whigs had any share in the government. These insinuations revived the passion of the Church-Tories, and carried them to such excesses against the Presbyterians, as should not be allowed in a well ordered state, but which these ministers affected to connive at. Indeed, their design was not to lessen, but rather to increase the animosity between the two parties, because their own was thereby strengthened.

Hitherto every thing succeeded to the wish of the new ministry. But they were very sensible, that the present advantages procured by these imaginary terrors would be of no long continuance. Besides, though they could have kept the people always in this disposition, the queen might die very soon, especially as she was very infirm. In that case, they had reason to fear, the fabric they had raised, would be demolished, by the elector of Hanover, who was to succeed the queen, by virtue of the act of succession, for which he was chiefly indebted to the Whigs. They were therefore to think of preventing this danger without loss of time. Their party was too weak to struggle with the sovereign, should he happen to be against them, as had been often seen during the reign of king William, and in the first years of queen Anne. They therefore concluded, at least, if we may judge by their proceedings, that their surest way would be to secure the crown to the pretender, in order to have a protector when the queen should fail them. It is however still uncertain, whether the earl of Oxford, that able minister, now in the Tower, was of this opinion. But it cannot be denied, that they believed the assistance of France to be absolutely necessary for their support. Accordingly, to secure it, they made a dishonourable and hasty peace, to the astonishment of all Europe, and forced the allies of England to follow her example. Probably, had not the queen died so soon after the peace, the oppressed Whigs would have been obliged to call in to their assistance, the elector of Hanover, as they had before the prince of Orange, but with far less hope of having the general concurrence of the people. The reason is, because king James's design to subvert the Church and State, was so open, that it could not be doubted, whereas against the pretender, there was only bare presumption.

What has lately happened since king George's accession to the throne, shows, there was a formed design to secure the succession to the pretender, had not the death of the queen

happened, before the authors of it had time to take all their measures. It is however uncertain, whether they could have executed their design, or whether, if they could, the pretender's reign would have been of any long continuance. The English in general are extremely jealous of their laws and liberties, nor are they less so of their religion. This is what I think I may venture to affirm, tho' some of them seem indifferent as to the latter. But, thanks be to God, these are far from being the majority. Now it would have been very difficult for the pretender, advanced to the throne by foreign aid, professing a religion contrary to the national, and guided by rank Tories, to keep himself within the bounds of moderation, necessary to gain the hearts of his subjects, without which a king of England can never sit firmly on his throne. However, without staying to guess what might have happened, let us only observe, that the rank and rigid Tories have been disappointed. Not only, the pretender is not king, but his hopes of becoming so were never less. King George is in peaceable possession of his crown; the Tories are humbled, and the Whigs, lately oppressed, are now at the top of the wheel.

After this brief account of the rise and progress of the Tories and Whigs, it will not perhaps be unacceptable to the reader to know more particularly the views, interests, strength, and characters of the two parties. For this purpose the different branches before-mentioned must be carefully distinguished. It is therefore necessary to repeat here, that the two parties may be considered under two different relations; namely, with respect to the state, and with regard to the Church. I shall first speak of the State-Tories and Whigs, after which, I shall consider them with respect to religion.

The State-Tories are, as I said, divided into two branches, one of which may in French be called, Rank. In England they are known by the name of High-flyers. This idea, taken from birds that, by soaring above the common flight, lose themselves in the clouds, is very suitable to men, who cannot contain themselves within the limits of the established government. These are for having the sovereign absolute in England, as he is in France and some other countries, and for erecting his will into law. They regard not what I have said in the beginning of this Dissertation, that all the governments at this day in Europe were originally like that established in England; and consequently there is no reason why the English should imitate nations who have suffered it to be lost, or at least very much altered. It may be imagined that



in such a country as England, this party cannot be very numerous, and yet they are very considerable for three reasons. First, because the heads of this party are persons of the highest rank, and commonly favourites and ministers of state, or such as hold the greatest offices at court, and the most eminent dignities in the Church. These men, who would not willingly put themselves under the conduct of others, being thus advantageously situated, become, generally, the leaders of all the Tory party. They manage them as they please, not only for the advantage of the whole party, but chiefly for their own particular ends. Thus very often, under pretence of acting for the interest of the party, their proceedings tend only to their own advantage, and the Tories are led by them much farther than most of them desire. It is this which gives occasion to many persons to accuse all the Tories of being for arbitrary power, though it is certain that only the High-flyers are chargeable with this principle. But 'tis no great fault, it seems, to ascribe to a whole party what is done by their leaders.

Secondly, This particular branch of Tories is considerable, in that, when they are in the ministry, they engage the Church-Tories strenuously to maintain the doctrine of passive-obedience, which goes a great way towards gaining the people to their party. They insinuate to the Episcopal ministers, that they have only in view the ruin of the Presbyterians, and under that pretence cause them to preach a doctrine, the consequence of which extends to all the subjects. This was experienced in the reigns of Charles II, of James II, and of queen Anne, towards the conclusion.

Lastly, The party of the High-flyers becomes very powerful, when, as it frequently happens, they are supported by the king, and then it is that the liberty of the nation is in danger. Proofs of this, have been seen in the reigns of James II, and Charles I, Richard II, Edward II, and Henry III; for the High-flyers are more ancient than is imagined.

The second branch of the State-Tories is composed of those I called moderate. These are for having the king enjoy all his prerogatives, but they pretend not, with the High-flyers, to sacrifice to him the privileges of the subject. They are true Englishmen, who have the welfare of their country at heart, and are for preserving the constitution transmitted to them by their ancestors. They have often saved the state, and will again save it, when in danger from the rank Tories or Republican-Whigs, by opposing with all their power those

who shall attempt to alter the government. It would be injustice, to confound them with the High-flyers under the general denomination of Tories.

As there are two branches of State-Tories, so there are two of State-Whigs, namely, Republican, and moderate Whigs. The Republican-Whigs are the remains of the party of the long parliament which endeavoured to turn the government into a commonwealth. These at present are so inconsiderable, that they serve only to strengthen the other Whigs, with whom they usually join. The Tories would persuade the public, that all Whigs are of this kind. And in like manner the Whigs would have it believed that all Tories are High-flyers. But this is only an artifice to render one another mutually odious.

The second branch of the State-Whigs contains the moderate Whigs, who are nearly allied to the moderate Tories in principle; and consequently are to be considered as true Englishmen, who desire, the government may be maintained upon its ancient foundations. Herein they would be exactly like the moderate Tories, were it not that these incline more to the king, and the moderate Whigs to the parliament. The moderate Whig is perpetually hindering the people's rights from being invaded, and sometimes even takes precautions at the expence of the crown. By him the triennial act was procured, with some others, which 'tis needless to mention, to prevent the abuse of the royal power. Hence it is evident that the High-flyers have no greater enemies than the moderate Whig, and that these two branches of Whigs and Tories properly form the opposition between the State-Tories and State-Whigs. These last laugh at passive-obedience when its consequences are carried too far. Their principle is, that the royal power has its bounds, which cannot be transgressed, without injustice. Consequently they believe, that whenever the sovereign exceeds his prerogatives, he may be resisted by his subjects. Hence it is easy to infer, they do not think the king can dispense with the laws.

What has been said is sufficient to show that the moderate State-Whigs and Tories are almost of the same sentiments. Their being of different parties proceeds from their mutual fear that either may make the balance incline too much to the king's or the parliament's side. It is not therefore strange, that these two branches of the opposite parties, unite in the pressing exigencies of the state. For, their views equally point to the preservation of the government; though often they pursue their end by different paths. Accordingly since  
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the union of these two branches upon the death of king William, they have remained inseparable, and the moderate Whig and Tory form almost the same party, under the common appellation of Whig. I dare not however affirm, that there are not yet moderate Tories who keep by themselves, and are unwilling to be confounded with the Whigs.

It must be remembered, that hitherto I have only spoke of the Tories and Whigs in relation to the government, without any regard to religion. I take care not to confound things which ought to be carefully distinguished. It is not true that all Churchmen are Tories, or all Presbyterians Whigs, in point of government, as is commonly imagined. Many Presbyterians are, in this respect, of the same principles with the moderate Tories, and would not be less concerned to see the king stripped of his prerogatives, than the subject of his privileges. In like manner, many Churchmen, even bishops themselves, are Whigs, very good Whigs as to the government, and as considered in opposition to the High-flyers, which shows the necessity of distinguishing State-Tories and Whigs, from Church-Whigs and Tories, of whom we are now going to speak.

I presume the reader knows that the Church of England, when she received the reformation, admitted only some alterations in her doctrine, but preserved the hierarchy, with all the ceremonies in which she saw nothing superstitious. The reformation was not properly compleated till the reign of Elizabeth. Then it was that several constitutions of the convocation, confirmed by acts of parliament, settled the public worship as it stands to this day. Mean while, many Englishmen, who had fled from the rage of queen Mary, returned home with favourable sentiments of the reformation, as established in France, Switzerland, Geneva, and other parts of Germany. These men could not comply with the reformation in England, which, in their opinion, had not been carried far enough from the church of Rome. For this reason they not only absented themselves from the assemblies of the established Church, but also composed separate assemblies, which were called conventicles. These separatists were likewise stiled Presbyterians, because, refusing their submission to the bishops, they maintained that all priests or ministers had an equal authority in the church, which ought to be governed by presbyteries, or consistories, composed of ministers and lay-elders. Upon this occasion were two parties formed, who wanting the mutual forbearance of persons professing in the main the same religion, began to molest one

another with disputes in conference and writing. The Church-of-England-men were very angry, that private persons should pretend to reform what, after mature deliberation, had been established by national synods and parliaments. On the other hand, the Presbyterians thought it no less strange, that they should be compelled to practise what they believed contrary to the purity of religion (a), and with what their consciences could not comply. The Presbyterians were long oppressed, because their adversaries supported their arguments with reasons from the authority of the queen and parliament.

The Presbyterians conceived great hopes of the accession of James I, because that prince had always professed their religion whilst he reigned in Scotland. But as he readily conformed to the Church of England, they were not much eased. Mean while, this party, though oppressed, so increased, that in the beginning of the troubles they were become very numerous. King Charles I. was so attached to the Church of England, that it may be affirmed, he died a martyr to it, as is evident from his history. His opinion of the purity of this Church, made him hearken to William Laud, archbishop of Canterbury, suggesting to him the reduction of the Church of Scotland under the same government with that of England, by introducing the hierarchy. This undertaking engaged him in a war with Scotland, and the war produced the long parliament, against which he thought himself obliged to take arms. This parliament wanting the assistance of the Scots, could not obtain it but by an engagement to make the Church of England Presbyterian. A quarrel was therefore sought with the bishops, deans, and chapters; in a word, with the whole Church of England, which saw its hierarchy, established by queen Elizabeth, entirely subverted, and the Scotch Presbyterian government introduced. In this distress, the Episcopalians had no other resource than to unite the Episcopal party with the king's party, and as they had one common interest with the Cavaliers, namely, the maintenance of the king's cause, they were confounded with them under the same party denomination. The Presbyterians were in the like manner reckoned among the Roundheads, because they adhered to the parliament.

During the long parliament, and even to the death of Cromwell, the division of the branches just mentioned, was hardly perceived. All who were known by the name of Roundheads, or Parliamentarians, were rigid Presbyterians

(a) This procured them the name of Puritans.



and Republicans. This was the party then in vogue, and the only one that could prefer such as aspired to the posts in the gift of the parliament. In like manner the followers of the king's party appeared to be rank Cavaliers, or rigid Episcopalians, because these were then most regarded at court. But on the restoration of Charles II, the several branches of the two parties began to be distinguished. All being tired with the troubles which had so long harrassed the kingdom, the moderate no longer feared to discover their sentiments. Some of the Presbyterians testified a readiness to relax, and many Episcopalians were of opinion that, for the sake of peace, some condescension might be used to the Presbyterians. These therefore were the men of both parties, who preferring this moderation, formed the two branches of the moderate Whigs and Tories, with respect to religion. But still the majority in both parties, firmly adhered to their principles with inconceivable obstinacy. Amongst the Episcopalians there were, who, upon no account whatsoever, could be persuaded to recede in the least from the practice of their Church. On the other hand, there were Presbyterians who were no less offended at seeing a minister officiate in a surplice, than at hearing him preach heresy, and who branded with the name of idolatrous and superstitious, every ceremony retained by the Church of England. This gave birth to the two branches of the rigid Episcopalians and Presbyterians, which subsist to this day. The hierarchy is the principal point, on which they are divided. They are both comprised under the name of Whigs and Tories, because the rigid Episcopalians join with the Tories, and the Presbyterians with the Whigs.

From what has been said concerning the several branches of Whig and Tory, it is easy to gather that these two names are very obscure and equivocal terms, because they convey, or ought to convey, to the mind different ideas, according to the subject discoursed of. For instance, if I hear it said, that the Tories and Whigs are at great enmity, this raises in my mind an idea comprehending all the several branches of Whigs and Tories in general. But if I am told, the Tories are for having the king absolute and independent, or that the Whigs would be glad the regal power were abolished, my idea can only extend to the High-flyers and the Republican-Whigs. The rest of the Whigs and Tories would doubtless be offended at any such imputations. In like manner, if I hear that the Tories had rather see a Papist on the throne than a Protestant, favourable to the Whigs, I should injure

the Tories in general, by imputing such a thought to them, which can only be entertained by the Popish and some rigid Church-Tories, and perhaps some High-flyers. Lastly, if I hear that the Whigs aim at the ruin of the Church of England, I can understand this only of the Presbyterian-Whigs, since the Episcopal-Whigs, amongst whom are several bishops, cannot with justice be accused of labouring the ruin of their own church. Thus the names of Tories and Whigs convey to the mind certain confused ideas, which few are capable of rightly distinguishing. But this difficulty still increases, when it is considered that the same person may be either Whig or Tory, according to the subject in hand. A Presbyterian, for instance, who wishes the ruin of the Church of England, is certainly for that reason in the Whig-party. But if this Presbyterian opposes with all his power the attempts of some of his party, against the regal authority, it cannot be denied that he is in that respect a true Tory. In like manner, when the Church only is concerned, the Episcopal party are to be considered as Tories. But how many even of these are Whigs with respect to the government? Nor have foreigners only such confused ideas in this matter; the English themselves are liable to them. Nothing is more frequent than to hear a Whig charging all the Tories in general with an intention to destroy the rights and liberties of the subject; and a Tory arraigning the Whigs without distinction, as utter enemies to the Church and state. Every man uses this confusion of ideas, occasioned by the names of Whig and Tory, to accuse his adversaries of what is most odious in both parties.

Having shown as distinctly as I could, what is to be understood by the Tories and Whigs, I am next to examine the several motives and interests of the two parties. Were we to rely on what is said by both, nothing is more just, more equitable, than the motives by which they are actuated, namely, the glory of God, the honour of the king, the public good, and the welfare of the nation. For my part, if I may speak my mind, it is my belief, that as they are all men, interest is the main spring of all their actions. Since the two parties were formed, each has earnestly laboured to gain a superiority over the other, because this superiority is attended with posts, honours and dignities, which are conferred on their own members by the prevailing, in exclusion of those of the contrary party. This made king William say, that, 'If he had places enough to bestow, he should soon reconcile the two parties.' There would be yet another expedient



dient to supply what that prince imagined, namely, to confer all the great places upon neutral lords. But where shall we find a sufficient number of such, who are qualified to exercise the highest offices? Certainly there are but very few. I own however there are some, who, by their capacity, their impartiality, their disinterestedness, would deserve a particular distinction. I wish I knew them all, that I might insert their names, and give them in part their due praise. But these lords, so worthy of being known, are little heard of in foreign parts, because as they make their court to neither party, the public posts generally fall not to their share. Nevertheless, it sometimes happens that ministers are in a manner obliged to find out these neutral lords, and advance them to the first dignities in the kingdom. We know one especially, who, without ever courting the Whig or Tory ministers, was sent ambassador and plenipotentiary at the peace of Ryswick, honoured with the order of the garter, successively raised to the offices of lord privy-seal, lord president of the council, lord high-admiral of England, and lord-lieutenant of Ireland, though he never solicited these great offices. I speak of the earl of Pembroke, whose reputation is better known to me, than that of some other lords of the same character, who ought to receive no injury from my silence. Among all his other virtues, his integrity in the great posts which he has filled, calls for much nobler encomiums than he can receive from a foreigner, who has neither the honour to know him personally, nor to be known by him. If there were in England twelve such lords, advanced to the great offices, it would be an infallible means to humble both parties at once. Then the aspirers to employments would make it a merit to espouse neither party, and this impartiality would soon descend from the great men to the people. But this is a happiness rather to be desired than hoped. Neutrality, far from promoting persons of distinguished merit, is rather a sure impediment to their rising, because the ministers and party-leaders think only of gratifying their creatures.

Interest, as I said, is the principal motive which actuates the two parties, and this is but too apparent. If, for instance, the High-flyers wish to see the sovereign in possession of absolute power, I very much doubt whether this flows from a desire of procuring the welfare of the kingdom, though they should be persuaded that despotism is the most compleat form of government. If the public good was the sole spring of their actions, they would not be so warm. The same may be said of the other branches of the two parties. Each would  
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have it believed, they have only the good of the kingdom in view, while in fact they are only labouring for themselves, their family and posterity. But when I say that interest is their principal motive, I pretend not to exclude entirely many others, which may actuate as well the heads as the members of each party. Some believe that their principles really tend to the good of the state; others act from a religious motive; some are swayed by revenge, party-spirit, and the desire of superiority. Numberless other motives there are on which I think it needless to enlarge, that I may not be led to examine the conduct of particulars. It is certain, many may pursue the same ends from different motives. It will be better to show the strength and several interests of both parties. In order to this, it is necessary to proceed in this examination according to the different branches into which they are divided. I shall begin with the Tories.

It is difficult at first to conceive, that in a country like England, blessed with so many noble privileges, which other nations do not at present enjoy, there should be men who wish to see the king invested with unlimited power. There are indeed but very few who openly profess themselves to be of the party which I call High-flyers. Nevertheless it is but too true, that such a party has always been in England, and still subsists to this day, though disowned by most of those who are engaged in it. Can it be denied that such a party existed under Charles I? The very judges of the kingdom, who are considered as the interpreters of the law, gave it as their opinion, that in cases of necessity the king might impose taxes upon his subjects, and that the king himself is the sole judge of such cases. This was rooting up the noblest prerogative of the parliament, and the principal cause of their frequent meetings. If the sovereign could levy taxes upon his subjects, without authority of parliament, it may be affirmed, that their sessions would be very rare, and perhaps, in time, entirely cease. But, if the parliament were once laid aside, what would become of the privileges and immunities of the subject? In all likelihood, the case would be the same as in France, since the general assembly of the states has been discontinued. Has it not also been seen under James II, that the judges ascribed to the king a power of dispensing with the penal laws? And was not this making him absolute? In short, we have seen Charles I, Charles II, James II, taking large steps towards arbitrary power, which they would never have attempted, had they not expected to be supported by a numerous party. Let queen Anne's proceedings in the last  
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years of her reign be considered; for instance, the negotiation and conclusion of the peace of Utrecht, the creation of twelve peers at once, the violences used in parliamentary-elections, and it cannot be denied that they were so many advances towards despotism, to which she was excited by the party I am speaking of. It is therefore certain, there is such a party in the kingdom. But as they dare not openly avow their principles, they cover them with the pretence of maintaining the rights of the crown, to which they seem to confine themselves, willing to have it believed that they are of the party of the moderate Tories. But the principal High-flyers, being commonly favourites or ministers of state, it generally happens that they become heads of the whole party of the Tories, and engage them to do more than they would. They begin with attacking the Presbyterians, and so engage the Church-Tories to follow their measures, without knowing whither it is intended to lead them. On pretence of having the Dissenters only in view, they cause the clergy to preach passive-obedience, which tends directly to arbitrary power. It is this which renders the High-flyers more powerful than appears at first sight. The main concern of this party lies in drawing the Church into their quarrel, by pretending an extreme zeal for her rights. They are thereby confounded with the Church-Tories, whose number is very considerable, avoid giving the alarm to the moderate Tories, and keep themselves undiscovered till they have made the whole party subservient to their particular designs. But for all this, notwithstanding their care to observe what I have been saying, they have the misfortune never to arrive at the end of their career. After they have made themselves leaders of the whole Tory-party, and by secret paths, conducted the moderate and Church-Tories to a certain point, they are at last forced upon some proceedings which discover their designs. Then they lose many of their followers, who not only desert them, but go over to the Whigs. This was the case of James II, who saw himself suddenly abandoned by all the world, just as he thought himself secure of his ends. If, in the last year of queen Anne, the High-flyers who governed in her name, had attempted to procure a repeal of the act of succession, very probably, they would have met with the same mortification, and I do not doubt but the same thing will happen upon every the like occasion. The reason of what I advance seems to me evident, namely, that it can be advantageous but to very few Englishmen, to have a Popish or absolute king.

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The party or branch of the moderate Tories much exceeds in number that of the High-flyers; whatever advantage this last may have from the quality of their leaders, the other is more powerful from the goodness of their cause, I mean the preservation of the king's just prerogatives. This is properly the interest of all Englishmen, who cannot hope for greater happiness under any other form of government, than under that which has been so long established. This branch of the moderate Tories becomes still more considerable as often as any attempt is made to extend or abridge the royal prerogative. If to abridge it, they are joined by all the Whigs; if to extend it, they are assisted by all the rest of the Tories. Nevertheless, it sometime happens, that the junctures produce some change in the principles, as well as in the interests of this party. When the sovereign favours the Tories in general, by conferring places and posts upon them, nothing is capable to detach the moderate Tories from his interest: But their affection cools whenever he inclines to the other side. Then, if they see the Whigs, by a precaution common to them, make any attempt upon the prerogative royal, they are ready to join them. But herein their sole aim is to let the king know that they deserve his regard. This course was frequently taken by them in the reign of king William, who often changed sides. In general, it is the interest of the moderate Tories to oppose the attempts of the Whigs against the authority of the sovereign, because this supports their credit at court and in the country. But withal, they are to take care that the High-flyers do not, under the specious pretence of being of the same name and party, carry them farther than is necessary.

As to the Church-Tories, it may easily be conceived that they include almost the whole kingdom in their party, since this branch consist of all the members of the Church of England. Therefore when religion is in question, between the Whigs and Tories, the former are not able to resist their adversaries. To this superiority is owing the readiness with which the Church-Tories show their resentment against the Presbyterian Whigs. It is not so with the Whigs, who even in their greatest prosperity dare not so much as discover the least thought of attacking the Church. They did it once under the long parliament, and it will never be forgot by the Tories. They look upon the Whig-party as an enemy always ready to undermine the foundations of their Church, and, from what was once done, infer the desire of doing the like again, when a favourable opportunity presents.



sents. This makes them so readily receive every impression which from time to time is given them of the Church's being in danger, and suffer themselves to be so easily deluded on that account. Their leaders know so well how to improve this disposition, that they project nothing in relation to the state, without including the Church. This is an infallible expedient to unite the whole party, which would be very much divided, were the government only concerned. This procured Charles I. many adherents, whom assuredly he would have wanted, had the parliament not attacked the Church of England. Moreover, it was this, which in the reign of Charles II. put the duke of York, though a Papist, at the head of the Episcopal Tories, who willingly concurred with him in the destruction of their enemies. Whenever king William turned to the side of the Whigs, the Tories were full of imaginary fears of his labouring the ruin of their Church. The same method was practised in the first years of queen Anne, because the ministry was then composed of Whigs or moderate Tories. The same imaginary fear threw the Episcopalians, towards the conclusion of that reign, into the schemes of men who had visibly no religion at all. In short, on this very pretence, we lately saw in the reign of king George, a Popish pretender called in, to screen the Church of England from the pretended attempts she had to fear from the Whigs. It is therefore religion which gives power to the Tory party. It is certain, if the secret of interesting the Church in the quarrel was not practised, the High-flyers would make a very contemptible figure, and the differences between the Whigs and moderate Tories would cause none of those disturbances in the kingdom, which have so long prevailed.

It is true, that among the Church-Tories, there are many who are very sensible of the artifices by which the whole party is engaged in a quarrel, advantageous but to few. Of this number are those I call Low-Church-men, among whom some possess the first dignities of the Church. But they are not the strongest. The party of the rigid Churchmen is much more numerous. This last branch consists of almost all the inferior clergy, of some bishops, of both universities, particularly that of Oxford, and these bodies draw after them great numbers of the laity. It is these that compose what is called in England, High-Church, that is, a church which has no mixture of Presbyterianism. These men are so attached to the least ceremony of the Church of England, that they would not relax upon any thing whatsoever, and by this  
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stiffness, they discover more of the spirit of party than of zeal for religion. I will even venture to say, that many of them would rather chuse to see England under Popery than Presbyterianism. Now, as the Low-Church-men, though more moderate in their sentiments, look upon the hierarchy as an essential point, it is not surprizing that the Tories unite when the growth of Whiggism is to be opposed, which has all the Presbyterians in its party. It is, perhaps, an artifice of the State-Tories, to have given, or at least to continue with so much care, the name of Tories to the Episcopalians, in order to confound in the same party, interests of a different nature, because this conclusion is very serviceable to them.

The Papists are likewise considered as a branch of the Tories, because they always remain attached to that party. As they can never hope to see Popery established but by means of an absolute king, it is not strange that they rank themselves with the High-flyers. Indeed, this assistance would not be very considerable to the Tories, if confined to the English Papists, since enjoying neither places nor votes in elections, they cannot have much credit. But this admission of Papists, engages likewise foreign powers in the Tory interest, who can on certain occasions be very serviceable. Nevertheless, it cannot be denied, that by this the Tories give their enemies great advantage against them, who use this pretence to render them odious.

If the leaders of the Tory-party aimed only at maintaining the prerogatives of the king, and the rights of the Church, it may be affirmed, that party would be invincible, because that is the true interest of the kingdom. But as it sometimes happens, that these are only pretences to cover other projects, less agreeable to the good of the state, when once their designs are discovered, their friends generally draw off, a division of the Tory-members being a necessary consequence of such discovery. This makes me think that it is almost impossible they should ever succeed in settling the pretender on the throne, or investing any king whatsoever with absolute power. This opinion is founded upon its not being the interest or desire of the nation in general. And hence it is, that they so firmly espouse the interests of France, because they are very sensible they want her assistance. It was seen in the last war that the ill successes of that crown were terrible mortifications to them, and therefore they endeavoured, as much as possible, to lessen them. Accordingly, when they were at the helm, their first care was to cure the wounds France had received. However, it is very difficult for France



to put them in possession of their wishes. Great-Britain is an Island which can hardly be attacked unawares; and which, while there is a good understanding between the king and the parliament, can send out fleets which France is not in condition to oppose.

The High-flyers are therefore to be considered as a party, to which the junctures of the time are not at all favourable, and consequently it should be their interest to remain in a state of inaction, till time should produce some opportunity to exert themselves. But to be quiet is no part of their character. They cannot possibly be easy, while they see themselves excluded from all places of honour and profit, which probably are the springs of their motions. It is, however certain, that the disturbances raised by them from time to time, to very little purpose, are attended with great injury to themselves, as well as to all the Tories in general, who are always charged with the faults and passions of those who are looked upon as their leaders. This very consideration induces some to desert their party.

As to the three other branches of the Tories, namely, the moderate, the rigid, and the low, it would be folly in the Whigs to think of their ruin by violent methods. This could not be effected without over-turning the kingdom. They may indeed exclude them from public posts and employments. But should they be so imprudent as to meddle with the Church of England, they would run the hazard of raising a storm, which might cost them the superiority they at present enjoy. Therefore it is the interest of the Whigs to leave the Church unmolested, and their conduct shows they are perfectly convinced of this truth. Though they have lately had frequent provocations, it is not seen, that now they are in power, they seek to be revenged upon the Episcopal party. On the contrary, their grand aim is to divide that party, if possible, from the rest of the Tories, by convincing them, that they bear no ill-will to the Church. If they could succeed, their victory over the High-flyers would be certain. But these last, sensible of the prejudice which this conduct does them, endeavour to prevent its effects by always engaging the Church in their quarrel, and inspiring the people with continual fears of the designs of the Whigs against the Church.

Having shown the views, strength, and interest of the Tory-party, I am next to speak of the four branches of the Whigs. As to the Republican-Whigs, they are at present very inconsiderable, and their party daily diminishes. There

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is not the least probability of their ever finding again an opportunity like that during the troubles of Charles I's reign.

I have already observed, that the principal difference between the moderate Whigs and moderate Tories is, that the latter are more inclined to the king's prerogatives, and the former to the privileges of the subject. But this prevents not their union when the state is in danger. Were the moderate Tories not Episcopalians, and had the moderate Whigs fewer Presbyterians among them, it might be hoped that these two branches of Whigs and Tories would remain for ever united, as they seem to be since the death of king William. But when I say that the one incline more to the king, and the others to the subject, I speak the truth, and not what they say themselves. The two parties affirm, on the contrary, they have no other aim, than the preservation of the government as established many ages. So to hear them, you would think they form, and always have formed one and the same party. It is, however, but too true, that their different inclination frequently obliges them to divide, though it is to be presumed, their intentions are equally good, and that they differ only in the means they employ. The one perhaps are too jealous of the increase of the royal prerogative, and the others fear it not enough. But it is religion which chiefly makes them to be considered as different parties, because the one is composed wholly of Episcopalians, and the other has a great mixture of Presbyterians. Now to separate the interests of the Church from those of the state, requires abstractions of which all are not capable. Nevertheless it may be affirmed, that the branch of the moderate Whigs considered separately, and in itself, is not less powerful than that of the moderate Tories. But when both join together, they form a party which would be irresistible, if religion were out of the question. The great business therefore of the moderate Whigs is to assist the people as much as possible, to discern the interests of the Church from those of the state; for which purpose they are to treat the Episcopalians with great moderation. Nor ought they to be less careful how they listen to the Republican-Whigs, for fear of alarming the moderate Tories, of whom they have frequent occasion. But on the other hand, nothing ought to be neglected by them for breaking the measures of the High-flyers, who are their real enemies. Such is the course they must take to preserve their credit.



I proceed now to the Church-Whigs, who are divided into two branches, of which the first is of the rigid Presbyterians, who absolutely reject not only the Hierarchy, but moreover every ceremony practised in the Church of England. Their number is very great in England, but they are still more considerable by having all Scotland for them. They are continually labouring the propagation of Presbyterianism, and, on some occasions, the leading Whigs, to content them, are obliged to take some steps prejudicial to the whole party. It is easy to conceive that the interest of the rigid Presbyterians requires an innovation in the established religion, because it can only be by some great revolution that their own can come to be uppermost. Wherefore they are considered as dangerous men, and very unfit to head the Whig-party, who in all appearance, would be ill conducted by such leaders.

Lastly, There is another branch of the Church-Whigs, which includes the moderate Presbyterians, and to which may be added all the rest of the Non-conformists, as Quakers, Anabaptists, &c. who find more support from the Whigs than from the Tories, though their junction adds no great strength to the party. The moderate Presbyterians, less scrupulous, less passionate, and less obstinate than the rigid, make no difficulty to join the assemblies of the established Church, and even to communicate therein when their interest requires it. If it were left to their choice, Presbyterianism would be the reigning religion. But they do not think it prudent to labour to make it so by violent methods. They know, it would be an infallible means to unite all the Tories against them; whereas it is the interest of all the Whigs to keep them divided, by continually insisting upon the distinction between State and Church-Tories, and showing that they have no ill designs against the latter. These are doubtless, the most dangerous enemies of the High-flyers and rigid Tories, because by their moderate conduct they deprive them of the pretence to complain that the Church is in danger. These were aimed at by the Tories in their act, towards the conclusion of queen Anne's reign, against occasional conformity. As few are acquainted with the nature of this act, I shall briefly explain it.

In the reign of Charles II, an act was made called the Conformity Act, whereby any person admitted to any public office was to bring a certificate of his having received the sacrament in the Church of England. The intent of this act was to exclude all Non-conformists from places of any

kind. Indeed, it produced this effect with regard to the rigid Presbyterians, who could not resolve to receive the communion from the hands of a bishop, or a minister of the Episcopal church. But the moderate Presbyterians were not so scrupulous. On their admission to any post, they scrupled not to receive the communion in an Episcopal church, and to take the proper certificates. It was not possible for the Tories to add any explication to this act, during the reign of king James, who, on the contrary, granted an universal liberty of conscience; nor in the lifetime of king William, or the first years of Queen Anne. But having the power in their hands, at the conclusion of her reign, they were not contented with reviving this act, but added to it a clause to prevent occasional conformity, or the communicating in the Church of England on account of some employment. This excluded not only the rigid, but also the moderate Presbyterians, from all public offices: For by this act, which is still in force, to communicate once in an Episcopal church, is not a sufficient qualification for a place, as before, but a man must show that he is really a member of the Church of England. If the Whigs, who at present prevail, dared to meddle with this act, it would soon be repealed. But for reasons before intimated, very probably it will be suffered to subsist, and its violation only connived at.

The strength of the two parties being such as we have seen, and the interest of the several branches so opposite, it seems to me a natural consequence, that the placing a Popish prince upon the throne, while the king and parliament are in union, and the rights of the Church are untouched, is a thing almost impossible. The people may from time to time be deluded by imaginary fears of the Church's danger. But this delusion must quickly vanish, when it is seen that the Church is not really attacked. Now if religion is not concerned, that is, if the Episcopalians do not think themselves under an absolute necessity of trying all ways to save their Church from ruin, the endeavours in favour of the pretender, will prove ineffectual. As often as it shall be attempted to place him on the throne, the moderate State and Church-Tories will join the Whigs, and then that party will be too strong for the High-flyers, though in matter of religion they should be joined by all the rigid Tories, which however is not very likely. For it must not be imagined, because a few rigid Tories make a great noise, that the whole branch wish to see a Popish prince on the throne. They are zealous for their Church, but their Church is Protestant and this very zeal suffers



suffers them not to endanger their religion. It will be said perhaps, that France will assist the High-flyers with all her forces. This is what I can hardly believe for reasons I shall mention hereafter. But though France should heartily engage in this undertaking, the execution would be difficult on account of the situation and naval power of England. Nothing but a surprize can produce the effect desired by the High-flyers, Papists, and some rigid Tories. However, the attempt lately made, will probably induce the king and parliament to take good precautions against such surprizes for the future.

There is still another everlasting obstacle to the establishment of a Popish prince, and that is, the possession of some part of the lands of the monasteries suppressed by Henry VIII, by almost every noted family in England. The ancestors of the present possessors either received them in presents from the king, or purchased them at an easy rate. If therefore a Popish prince should now mount the throne, there is no doubt but he would try to establish his religion. But should his attempt prove successful, in what danger would these estates be? In all probability the present owners would be dispossessed. Nay, who knows whether they would not be called to account for the profits? It is therefore manifest, that the Tories and Whigs have an equal interest in the prevention of this danger. If the advocates for a Popish prince were to be strictly examined, it would be found, without doubt, either they have no possessions of this kind, or believe they have particular reasons to flatter themselves with an exemption from the general law, or with being made amends some other way.

I am now to give a more distinct idea of the two parties of Whigs and Tories, by showing their respective characters.

The Tories in general are fierce and haughty. The Whigs are treated by them with the utmost contempt, and even with rigour when they have the superiority. As the Tory party is composed of Episcopalians, who properly make the body of the nation, they look upon themselves as the prevailing party, and cannot bear an equality, much less a superiority, in their adversaries. I cannot better compare the behaviour of the Tories to the Whigs, than to that of the Roman Catholics to the Protestants in countries where the Papists have the advantage of number, and the support of the government. It is with regret that the Tories allow the Presbyterians liberty of conscience. When the power is in

their hands, they seldom failed to prohibit their assemblies, and to exclude them from public employments by acts of parliament. The last years of queen Anne afforded flagrant instances of the haughtiness of this party.

There is still another character which belongs to them. They are exceeding passionate and precipitate in their motions. This often disconcerts all their projects. When they have the reins in their hands, they drive with amazing rapidity. Very remarkable proofs of this were seen under Charles II, James II, and the late queen. Nevertheless it must be confessed, that this rapidity is not always the effect of an impetuous passion, but is sometimes founded in policy. As the High-flyers, who are commonly at the head of the party, sometimes project the alteration of the government, they are obliged to embrace, with great haste, the opportunities which offer, because these opportunities are naturally transient. For instance, under Charles II, it was necessary to put a speedy stop to the progress of the Whigs, for fear the king, who was, with some difficulty, and for other interests than his own, engaged in the plot, should alter his mind. Besides, there was no time to lose, because it was well known that the Whigs were labouring with all their power to inform the people of the true designs of the court. So again, when James II. ascended the throne, the presumptive heir to the crown was his eldest daughter the princess of Orange, who was firmly attached to the Protestant religion. Wherefore as the king might die without sons, all his projects would vanish by his death, if his work was not finished during his life. It was necessary therefore to make haste, because the like opportunity would probably never offer again after his death. For the same reason, queen Anne being childless when she put the ministry into the hands of the High-flyers, a peace was quickly to be concluded with France, and speedy measures taken for securing the crown to the pretender, lest her death should prevent the execution of their projects, as it really happened. It was undoubtedly on this account that a peace was so hastily concluded with Lewis XIV, because his assistance was thought necessary to accomplish the work. Probably, if the queen had lived a little longer, the act of succession had been repealed. But this precipitation, which seems so necessary to the Tories, is, on the other hand, prejudicial to them, inasmuch as it too soon discovers the designs of their leaders, which require a gradual execution. In order to succeed, they must have a long and peaceable reign,



a king favourable to their designs, and of great ability, or at least ready to be guided by their counsels.

Another character of the Tories is, their change of principles as their party prevails or is humbled. When they have the prince on their side, the doctrine of passive-obedience is supported with all their power, and every ordinance of the king is to be obeyed without examination, because then, they would have the Whigs suffer themselves to be oppressed without any resistance. But, when the government is in the hands of the contrary party, this doctrine lies dormant or is forgotten. Thus, in all the Tory-writers, who have transmitted the troubles of the reign of Charles I, passive-obedience is established as a principle certain and incontestable. This is owing to their intention of representing the measures of the parliament for their own defence, and in opposition to the designs of the king, as a horrible rebellion. When the Presbyterians were persecuted in Charles II's reign, passive-obedience was every where talked of. But it was still much worse under James II. I remember to have heard from the pulpit, the consequences of this doctrine carried as far, and perhaps farther than ever they were in France, under Lewis XIV. Great stress was laid upon a canon of a convocation of the Church of England, which imported, that arms taken up against the king by the subject, on any pretence whatsoever, is direct rebellion: That whether the subject be upon the offensive or defensive, he is clearly condemned by St. Paul, who says, 'he shall receive to himself damnation.' But the convocation, in which this canon was made, was held under archbishop Laud, when Charles I. governed in an absolute manner, a little before the beginning of the troubles. But when king William was on the throne, the doctrine of passive-obedience was no longer enforced, because that king was considered as no friend to the Tories. The case was the same under queen Anne, while the ministry was composed of Whigs, and moderate Tories. But the doctrine revived when that princess delivered herself up to the conduct of the High-flyers. But since king George has filled the throne, the High-flyers and rigid Tories plainly show, this doctrine is only admitted by them when they have a prince of their party, but is rejected without any scruple when the government is not for them. For this purpose they have a distinction ready between a king 'de jure,' and a king 'de facto,' and maintain, that only the king 'de jure' has a title to this obedience, but such is every king who favours

them, whether he is upon the throne, or has only pretensions to it.

Let us now speak of the character of the Whigs. Those of this party who are rigid Presbyterians, are a stubborn and obstinate generation, who perhaps would be as hot and as passionate as the Tories, were they in possession of power. But as, since the long parliament, the party has never been under their direction, it is not upon them that we are to form the general character of the Whigs, whereas that of the Tories is to be taken principally from the High-flyers and rigid Tories, who are their leaders and directors.

The heads of the Whig-party are much more moderate than the leaders of the Tories. Besides, they proceed generally upon fixed principles, from which they never swerve, except when they are obliged to give some satisfaction to the Presbyterians to keep them from desponding. Far from desiring, like the Tories, to carry things with a high hand, they advance gradually, without heat or violence. Their greatest trouble is to curb the passion of some among them, who, were they unrestrained, would quickly ruin the party. By this moderation, they try to insinuate mildly into the people, that they have no ill designs against the Church of England, in order to separate the Church-Tories from the High-flyers. As it is the interest of the Tories to confound all the branches of their party, and unite them into one body, to be directed by the leaders; so it is the business of the Whigs to have these several branches distinguished, that the Episcopalians may be prevented from promoting the designs of the High-flyers. But they would never be able to gain this point, were they to use violence. Thus the gentleness and moderation of the Whigs is no less founded in policy, than the hastiness and precipitation of the Tories.

The Whigs are charged with being greedy of riches and honours, and ungrateful to their adherents, which makes their friends often forsake them. I can say nothing to this, not being sufficiently informed of the particular concerns of the party. Besides, the examination of this charge would lead me to consider the conduct of those who think themselves ill used, which I would avoid, as contrary to my intent of confining myself to general ideas. However, it may be said for the moderate Whigs, that generally they support a good cause, namely, the constitution of the government as established by law. They err indeed sometimes through too much care and distrust, which throws them now and then upon proceedings contrary to their true interest, and their own



own principles, since on certain occasions they maintain the privileges of the nation and parliament, at the expence of the royal authority.

As to the ecclesiastical Whigs, who are no other than the Presbyterians, all that can be said of them, is, that they are extremely prejudiced against bishops, and the whole hierarchy. Now the question is, whether this prejudice be well grounded, or, being so, whether it affords just cause for separation. For my part, I look upon this dispute between the Episcopalians and Presbyterians as of little consequence. And therefore I cannot approve of the stiffness of the Presbyterians, in a country where the reformation is established according to the Church of England, since the two churches differ in no essential point. I say the same thing of the Episcopalians of Scotland, and perhaps in England itself, greater regard should be had to the scruples of the Presbyterians. But this is only my private opinion, which I do not pretend to give for a rule to the one or the other.

Before I proceed, it will be proper to obviate an objection which may naturally occur to the reader, namely, That every thing in England being done by way of parliaments, these unions above mentioned, whether of the branches of the same party, or of the branches of the two different parties, seem to no purpose, unless made in the parliament itself between the members. But so far are such unions from taking place in the parliament, that one of the parties generally so prevails there, as to render the union of the rest of the members entirely fruitless.

To this I answer, first, that the parliament, consisting of two houses, whereof that of the lords remains always the same without any considerable change, these unions may take place in that house, whose principles are not so variable as those of the commons. Now, as the upper-house has power to throw out the bills sent up by the lower, it follows that the lords, by means of such unions, may break the commons measures. Consequently these unions may produce great effects.

Secondly, These unions may influence the elections of members. For instance, on suspicion that a Popish prince is intended to be set on the throne, the moderate Tories and Low-Churchmen may join with Whigs, and cause such representatives to be chosen as are against what is feared, and thereby break the measures of the High-flyers and rigid Tories.

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Thirdly, Even in a house of commons, consisting mostly of Tory members, the moderate among them seeing some design in hand prejudicial to the nation, may join with the Whigs, and hinder the execution of it. The moderate Whigs might also unite with the Tories, if they saw the Republican party growing too strong.

It must however be owned that party-spirit, the cabals of the leading men, the intrigues of the court, the interest of particular persons, have but too much influence upon the debates of parliament. To say all in a word, the parliament is composed of men who are not free from passions. If the parliament were to answer the idea which those conceive of it who are not thoroughly acquainted with its nature, it should be composed of perfect men. But as that is impossible, it would be proper, at least, to reform certain abuses, for which hitherto no remedy has been found, or perhaps sought. Though this leads me a little from my subject, I shall stay a moment and take the liberty to point out some of these abuses. This may at least serve to give a more extensive knowledge of the English constitution, which, though excellent in its nature, is however liable to some imperfections.

The first abuse lies in the too great influence of the court, in the elections of members, and consequently in the resolutions of the parliament. This influence is visibly owing to the division between the Whigs and Tories, which gives the king an advantage, he would doubtless not have, were all the people well united. When one of the parties gets into the ministry, the lieutenancies of the counties and all the court places are conferred on persons devoted to them. After which, a new parliament is called. Then, besides the money privately distributed by the ministry, if report is to be credited, those that are in authority in the towns and counties, use all their interest and skill to get members chosen favourable to the court, that the ministry may have the superiority of votes in the house of commons. We may judge of the effect of these intrigues by this single consideration, that commonly there is a Whig-parliament when the ministry is so, and a Tory-parliament when the ministers are Tories. Nevertheless the thing is not so very certain, but that we find sometimes most of the elections carried against the court. But this rarely happens, unless the nation in general is satisfied that the court has designs pernicious to the state, or the liberties of the subject. I say nothing of our seeing, in the late reign, twelve peers created at once, with the sole view



of procuring the court a majority of votes in the house of lords. This is a palpable as well as a very dangerous abuse.

Another abuse lies, in many small boroughs having a right to send representatives to parliament, whose votes have the same weight with those of the members of London and Westminster, notwithstanding the great disproportion between the electors of the one and the other. In these inconsiderable boroughs, by the influence of the court, members are chosen that have not a foot of land near the place. It is pretended by some, that these boroughs have a right as ancient as the parliament itself, having enjoyed it ever since the time of the Anglo-Saxons. Others think it of much later date. But however, it is at present a monstrous abuse, that villages of four or five thatched houses should be upon the level in parliament with the largest cities of the kingdom.

A third abuse there is of great importance, and which ought to be reformed, since it is in some measure contrary to Magna Charta, on which the English found their liberties and privileges. In this charter, king John promises in express terms, for himself and successors, to declare beforehand the causes of calling a parliament. As long as this custom was observed, the points debated in parliament were not many, for which the members came prepared, and the sessions lasted but a few days. If this was observed now, the boroughs and counties might give their representatives instructions upon the affairs for which the parliament should be called, or, at least, might chuse such members as are of the same sentiments with the electors. But at present, several abuses spring from the non-observance of this method.

In the first place, the sessions hold as long as the king pleases, and are ended when he thinks proper. Henry IV. improved this advantage, by keeping the parliament assembled, till the desired subsidy was granted. In the next place, the electors, not knowing the business on which the parliament is to proceed, are forced to give their representatives an unlimited power. Hence arises another abuse, that the representatives of a borough or county are often of a contrary opinion to those that send them. It may therefore happen, nay, it has frequently happened, that the resolves of the lower-house are directly opposite to the sentiments of the people whom they represent. So it is not the people or commons of England that share the legislative power with the king and peers, but their representatives, who enjoy a privilege which belongs only to the people in general, to whom however they are not accountable for their conduct. All they  
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can suffer, in case they have acted contrary to the sense of their borough or county, is not to be chosen another time. This seems therefore to be lodging too great a power in bare representatives. It was not so in France, when the states of that kingdom were convened. Every province drew up, before-hand, their particular instructions (a), from which their deputies were not allowed to swerve. In like manner, in important affairs to be debated by the States-general of the United Provinces, the deputies receive instructions from their provinces; and in the particular states of each province, the magistrates of the towns give their orders and instructions to their deputies.

A fourth abuse lies in the public canvassings at the time of elections, with great expence. It costs some men several thousands of pounds to be elected, and this openly in the face of all the world.

Lastly, There is another sort of abuse in the house of commons, namely, that the members are allowed to go and come, or absent themselves as they please, except on certain great occasions, so that of five hundred and thirteen members, (if I mistake not) there are not present sometimes above one hundred and fifty. This makes it much more easy for the parties to cabal, than if the house were full. Moreover many members, though in London, do not constantly attend the house, but keep away upon any the slightest affair of their own. This puts me in mind of a pleasant story, with which I shall close this digression. A Whig-member telling one of the same party in great anger, 'That if he had been at the house that morning, they should have carried an important point.' The other calmly asked him, 'By how many they lost it?' By one single vote,' says he. The other replies, 'Had I been there, we should have lost it by four, for there would have been four Tories more, whom I have kept all this morning on purpose at a tavern.'

It remains only that I briefly speak of the interests of the neighbouring states, with regard to the Whigs and Tories. Though the differences between the two parties seem only to respect England, they have a great influence on the affairs of the other states. The peace of Utrecht clearly shows of what consequence they are to all Europe.

Every one knows, that the States-general of the United Provinces are friends of the Whigs, and very justly, since the Whigs have all along supported their interest in England.

(a) Called in French, *Les Cahiers*.



The Whigs obliged Charles II. to make a peace with Holland, when he was in league with Lewis XIV. against her. From that time, they have ever considered the interest of the Dutch as their own. Accordingly, in their turn, they have received signal services from them, particularly in the assistance given by the States-general to the prince of Orange, to go and break king James's measures. This good understanding is still cultivated, so that the Dutch may be said to be Whigs, and the Whigs to be Dutch. The reason of this union is evident. For France, perpetual enemy of Holland, ever supported the Tories; whence it follows, that Holland is obliged to stand by the Whigs, since she cannot expect assistance from England, but by their means. This is so clear, that it needs no farther illustration.

For the same reason, the emperor, as sovereign of the Netherlands, ought to be a friend to the Whigs. As he must look upon the king of France as a very formidable and dangerous neighbour, he can expect the assistance of the English, in case his dominions are invaded, but when the Whigs are in power. In all appearance, the Tories would not exert themselves in the defence of the Netherlands against the invasions of France. But, should the emperor, through excessive zeal for his religion, lend his forces to the pretender to ascend the throne of England, he would only render France still more powerful, and add to the balance of Europe a weight, which would make it entirely incline to one side.

The interests of France, with regard to the Whigs and Tories, afford matter for many more observations. In general, it is doubtless the interest of that crown to cultivate a good understanding with England. Since the growth of the house of Austria, that is, since about two hundred years, England has ever had it in her power to incline the balance either on the side of Austria, or on the side of France, as she pleased. But it has been her standing interest to keep the balance even between these two powers. This has been the hinge on which all the policy of the kings of England has turned, for two centuries. Henry the Eighth's varying sometimes from this course, is to be ascribed wholly to the private interests of cardinal Wolsey his prime minister, or to his own caprice. So it was ever the interest of France to keep fair with England. Accordingly Lewis XIV. has politickly endeavoured these fifty years, either to get England on his side, or, at least, to prevent her from espousing that of his enemies. But as it was not easy for that monarch to persuade the

the English, that to incline the balance to his side was for their advantage, he confined his endeavours to hinder them from concerning themselves in the affairs of Europe, to the end he might proceed without any opposition from them. But it must be observed, that this policy respected only his vast designs of enslaving all Europe. Otherwise, he would have had no need to trouble himself about the English. To set his matter in a clearer light, it will not be amiss to show briefly how this monarch managed with regard to England.

Lewis XIV, as every one knows, formed the project of an universal monarchy in Europe. As he was not ignorant that England was concerned to keep the balance of Europe even, and that the English considered this maxim as the chief foundation of their security, he was justly apprehensive of their opposing the execution of his designs. For prevention of which, he used all his address to gain Charles II. to his interest, when he had resolved upon a war with Holland in 1672. The ministry being Tory, he drew Charles, by their means, into a league with him. But this league was of no long continuance. It was so evidently against the interest of England, that the parliament obliged the king to make peace with Holland. Nay, they would have constrained him to declare against France, if the prospect of an approaching peace between that crown and the States-general, had not hindered them from going so far.

The peace of Nimeguen, concluded in 1678, caused not the king of France to discontinue the prosecution of his grand designs. But as he was very sensible, king Charles would not have it in his power to follow his own inclination, he resolved to take another method, in order to disable England at least from interposing in the affairs of Europe. And that was to raise troubles in the kingdom, and then to foment them, that the English might be employed at home. The duke of York's plots, the king his brother's easiness to be guided by his counsels, the choice of passionate and perhaps corrupt ministers, proceeded, in all appearance, from Lewis's secret practices in England. This method succeeded to his wish. The conspiracy discovered by Titus Oates, the pretended Protestant-plot, the persecution of the Presbyterians, the people's murmurs, the discord between the king and the parliament, found the English so much employment at home, that it was not possible for them to look abroad. In the mean time, Lewis XIV. was rendering himself formidable to all Europe, having nothing to fear from the English, who remained



remained idle, when they should have used their utmost endeavours to put a stop to his progress.

Upon the accession of James II. to the throne, Lewis gave not over a method that had proved so successful. On the contrary, he pressed the new king of England to execute the projects he had formed when duke of York, in favour of Popery and arbitrary power. He knew these two points were sufficient to keep England long employed; however, as his aim was only to embroil the nation, he never assisted king James to any purpose. The too sudden execution of that prince's designs was not for his interest. When he saw him on the point of being attacked by the prince of Orange, he never stirred in his defence, but rather made use of the juncture to carry war into Germany. He imagined that the troubles he had raised in England, would long disable that kingdom from opposing his ambitious designs. This was the sole end of all his proceedings. Afterwards, when king William proclaimed war against him, he sent king James into Ireland with seven thousand men, an aid too weak to restore him to his throne, but sufficient to make a diversion, and feed the hopes of the male-contented. Thus is demonstrable from Lewis's whole conduct, that his sole intention was to embroil England, and that king James was the dupe of his policy. It seems however at first sight, that king James's restoration would have been for Lewis's advantage. But most assuredly it was against his interest for a king of England to be at peace in his dominions. The reason is plain; as it is the interest of England to keep the balance even in Europe, Lewis, who had formed vast projects, would have been in danger of being opposed by a king of England, who having no distractions at home, might in the end pursue his true interests, or be forced to it by his parliament. And therefore Lewis XIV. has been satisfied to keep England embroiled, and for that purpose, to hold secret correspondence with the leading Tories, who at length have discovered themselves in the last years of queen Anne.

It seems therefore to be the French king's interest to preserve a good understanding with the Tories, in order, by their means, to foment the troubles in England. This is strictly true, when he forms designs against the rest of Europe. But if he aims to live in peace, and stand upon his defence, in case of invasion, nothing can be more for his advantage than to cultivate the king of England's friendship, according to the constant maxim of Lewis's predecessors, whether the ministry be Whig or Tory. France may now be

be said to be invincible, as long as England declares not against her. But if the king of England is provoked, and enters into a new alliance with Holland and Germany, the last war's experience shows that France is very far from being invincible. It may therefore be affirmed, that if the illustrious prince (b) now at the helm of the French affairs, intends not to pursue the vast designs of Lewis XIV, it is not his interest to cherish the troubles of England, which, instead of being for his advantage, may greatly turn to his prejudice (c). I confess, in the indirect assistance given to the pretender in France, the regent's proceedings seem to destroy the maxim I mean to advance. Time will unfold, perhaps, the mystery of this policy. But in the mean while, I cannot forbear thinking that he is misinformed of the true state of the two parties in England, and has given too much credit to interested and prejudiced persons. Perhaps, the pretender himself has been deceived in the same manner.

I have but one observation more to make, with which I shall conclude what I have to say concerning the Whigs and Tories. In speaking of their several views, interests and characters, I pretend not include every particular person of either party, but only their leaders and managers, with some of the most active of both sides. Though the people in general, by inclination, or interest, are either Whigs or Tories, it does not follow that every single person acts in the views I have ascribed to them. It is certain, most suffer themselves to be led without knowing where it is intended to conduct them, or examining the course prescribed them. Consequently they are far from being concerned in the intrigues and cabals of their leaders. Such a one has listed himself a Tory, as being attached to the Church of England, and afterwards, without knowing how, finds himself obliged to maintain the principles of the High-flyers and rigid Tories, though contrary to his inclination. There are thousands of good Englishmen, without doubt, who grieve to see their country thus rent with divisions, and would gladly embrace all expedients to put a stop to them. But it is not easy to observe a just neutrality, because it is

(b) The duke of Orleans.

(c) It must be observed, that what Rapin says here of the interest of France, with regard to the Whigs and Tories, was written before the conclusion of

the alliance between that crown, England, and Holland, signed January 4, 1717, this Dissertation being finished in February 1716.



difficult to be without ambition and avarice. Those who stand neuter, as I said, are neither preferred nor trusted, by reason that one of the parties are always in power, and have nothing more at heart, than the advancing their friends, or gaining some of their adversaries. Consequently there can be no posts or offices for men, from whom the prevailing party can expect no manner of service. Moreover, how can a man be neuter between two parties, each of whom represent their adversaries as designing those evils which are most apt to fill men with fears, I mean the destruction of the religion they profess, and the dissolution of a government, which alone, in their opinion, can render subjects happy? A man must be very insensible, not to be moved with such dangers, when convinced of their reality.

All Englishmen therefore are not to bear the blame of these unnatural divisions, but only those who cherish them for their own private interest. Who are they that would invest the king with absolute power? Who are they that would debar free-born subjects of liberty of conscience? Who are they, in a word, that labour to introduce Popery? Can it be said that these are the views of every particular Tory? No, by no means. But they are the aims of the leaders, who, for their own ends, seduce the poor people, and make no scruple to involve them in the danger of a civil war.

It may be affirmed, that it is not the kingdom's interest for one of the parties to become so superior as to meet with no opposition. Should it be the High-flyers, they would introduce arbitrary power. And if it were the moderate Tories, their bias to the prerogative of the crown, would at length enable the sovereign to shake off the galling yoke of parliaments. Were it possible for the Papists to be superior, England would soon lose her religion and liberty. On the other hand, if the Republican-Whigs should recover the advantage they have lost, you would hear no more of the kingdom but the commonwealth of England, as in Cromwell's days. Lastly, were the moderate Whigs to have the management, they would so guard against the incroachments of the regal power, that the sovereign would be reduced to the condition of a doge of Venice.

As for the two parties with regard to religion, it is certain, if the Presbyterians can ever act without controul, they will not be satisfied till the hierarchy of the Church of England be entirely demolished. But then, if the rigid Episcopalians have nothing to ballance their power, the Presbyterians must  
expect

expect to be openly persecuted. And who knows whether they will suffer them to enjoy a bare liberty of conscience?

Affuredly the welfare of the kingdom consists not in any of the ends proposed by the leaders of both parties. The only way to restore peace and tranquility, would be to leave the government upon its ancient foot, and the Church as established at the reformation. It would also be necessary to grant a toleration to the Presbyterians, who are very numerous in the kingdom. If this way be not used, it will always be better for the state that the people remain in division, than if one of the parties should acquire a superiority, which would be more fatal to the public than the equality which cherishes discord. I do not see what can put an end to this sort of civil war, but the prudence of a just and equitable sovereign, moderate in his desires and passions, a lover of the Protestant religion, and that makes the good and happiness of his subject his sole care and study. This is what may with reason be expected from the king who now fills the throne, since he possesses all those virtues in an eminent degree. May Heaven prosper his designs, and may he live to see the happy effects of his pains and endeavours!

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# A P P E N D I X.

C O N T A I N I N G,

- I. The Bill for Bastardising *Edward IV's* Children, and settling the Crown on *Richard III.* and his Descendants.
- II. The Proceedings of the Convention of 1653.
- III. A Historical Abridgment of the Treaties from the Year 1648 to the Revolution, on which are founded the Rights and Pretensions of the several Princes and States of *Europe.*

# A P P E N D I X

I. The Bill for settling the succession of the crown on Richard III. and his descendants.

**M**R. Rapiu (with most of our historians) has committed some mistakes (particularly Vol. V. p. 148) concerning the Bill for settling the issue of King Edward IV. for the correction of which, Sir Robert Cotton's translation of the bill for excluding Edward's children, and settling the crown on Richard III. and his descendants is here inserted at large, with Prynne's Annotations. This extraordinary bill, though published near one hundred years ago, has not only not been copied, but hardly noticed by any English historian except Speed.

Anno primo Richardi Tertii.

In totulo parliamenti tenuti apud Westm. die Veneris vicesimo tertio die Januarii anno regni regis Richardi Tertii primo, inter alia continentur, ut sequitur.

Memorandum quod quidam billa exhibitae sunt coram domino rege in parlamento predicto in hac verba.

**W**HEREAS late heretofore, that is to say, before the consecration, coronation, and inauguration of our sovereign lord king Richard III. a roll of parchment containing in writing certain articles of the tenor underwritten, on the behalf, and in the name of the three estates of this realm of England, that is to say, of the lords spiritual and temporal, and of the commons by name, and other nobles and notable persons of the commons in great multitudes was presented and actually delivered unto our said sovereign lord,



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lord, the intent and effect expressed at large in the same roll, to the which roll, and to the considerations, and instant petition comprised in the same, our said sovereign lord, for the public weal, and tranquillity of this land, benignly assented.

A petition presented by several lords and commons out of parliament to Richard when duke of Gloucester, declared as valid as tho' done in parliament.

Now, forasmuch as neither the said three estates, neither the said persons, which in their name presented and delivered, as it is aforesaid, the said roll unto our said sovereign lord the king, were assembled in form of parliament; by reason whereof divers doubts, questions, and ambiguities, being moved and engendered in the minds of divers persons as it is said (a):

Therefore, to the perpetual memory of the truth, and declaration of the same, be it ordained, provided, and established in this present parliament, That the tenor of the said roll, with all the contents of the same, presented as is above-said, and delivered to our above-said sovereign lord the king, in the name, and in the behalf, of the said three estates out of parliament (b), be now by the said three estates assembled in this present parliament, and by authority of the same, ratified, enrolled, recorded, approved, and authorized, to the removing of the occasions of doubts and ambiguities, and to all other lawful effects that shall now thereof ensue; so that all things said, affirmed, specified, desired, and remembered in the said roll, and in the tenor of the same, under-written in the name of the said three estates, to the effect expressed in the said roll, be of the like effect, virtue, and force, as if all the same things had been so said, affirmed, specified, and remembered in full parliament, and by authority of the same accepted and approved: The tenor of the said roll of parchment, whereof above is made mention, followeth, and is such.

To the high and mighty prince Richard duke of Gloucester.

The petition itself.

Pleaseth it your noble grace to understand the considerations, election, and petition under written, of us the lords

#### Mr. PRYNNER'S NOTES.

(a) Things done and concluded without the three estates in parliament give little or no satisfaction to the people, though in the name of the parliament and the three estates.

(b) The three estates must

concur to make a parliament, else his title would neither be valid nor satisfactory, but ambiguous as before, no one or two of them being a full or real parliament, but all conjoined.

spiritual



spiritual and temporal, and commons of this realm of England, and thereunto agreeable, to give your assent to the common and public weal of this land, and to the comfort and gladness of all the people of the same (c).

First, we consider, how that heretofore in time past, this land for many years stood in great prosperity, honour, and tranquillity; which was caused for so much as the kings reigning used and followed the advice and council of certain lords spiritual and temporal, and other persons of approved sageness, prudence, policy, and experience, dreading God, and having tender zeal and affection to indifferent administration of justice, and to the common and public weal of the land: Then our Lord God was dreaded, loved, and honoured; then within the land was peace and tranquillity, and among the neighbours concord and charity; then the malice of outward enemies was mightily resisted and repressed; and the land honourably defended with many great and glorious victories; then the intercourse of merchants was largely used and exercised; by which things above remembered, the land was greatly enriched, so that as well the merchants as the artificers, and other poor people, labouring for their living in divers occupations, had competent gain, to the satisfaction of them and their households, living without miserable and intolerable poverty. But afterwards, when as such had the rule and governance of this land, delighting in adulation and flattery, and led by sensuality and concupiscence, followed the counsel of persons insolent, vicious, and of inordinate avarice, despising the counsel of persons good, virtuous, and prudent, such as above be remembered; the prosperity of this land decreased daily, so that our felicity was turned into misery, and our prosperity into adversity, and the order of policy, and the laws of God and man confounded; whereby it is likely for this realm to fall into great misery and desolation, (which God defend) without due provision of convenable remedy be had in this behalf in all godly haste.

Over this, among other things more special, we consider how in the time of the reign of Edward IV. late deceased, after the ungracious pretended marriage (as all England hath cause to say) made betwixt the said king Edward and Elizabeth, sometimes wife to Sir John Gray, knight, late naming herself, and many years heretofore, queen of England, the

(c) The new device of this bloody usurper, to entitle himself to the crown of England, and

take upon him the regal government.

Wherein king Edward the Fourth's marriage with lady Gray is declared void.

order of politic rule was subverted, the laws of God, and of God's church, &c. also the laws of nature, and of England, and also the laudable customs and liberties of the same, wherein every Englishman is inheritor, was broke, subverted, and contemned, against all reason and justice (d); so that the land was ruled by self-will and pleasure, fear and dread, all manner of equity and law laid apart and despised; whereof ensued many inconveniencies and mischiefs, as murders, extortions and oppressions, namely of poor and impotent people; so that no man was sure of his life, land, or livelihood, nor of his wife, daughter, or servant, every good maiden and woman standing in fear to be ravished and deflowered. And besides this, what discords, inward battles, effusion of Christian men's blood, and namely, by the destruction of the nobles blood of this land, was had and committed within the same, is evident, and notorious through all this realm, unto the great sorrow and heaviness of all true Englishmen. And here also we consider, how that the said pretended marriage betwixt the above-named king Edward and Elizabeth Gray, was made of great presumption, without the knowledge and assent of the lords of this land, and also by forcery and witchcraft committed by the said Elizabeth, and her mother Jaquet, duchess of Bedford, as the common opinion of the people, and the public voice and fame is throughout all this land, and hereafter, if the cause shall require, shall be proved sufficiently in time and place convenient. And here also we consider, how that the said pretended marriage was made privily and secretly, without edition of banns, in a private chamber, a prophane place, and not openly in the face of the church, after the laws of God's church, but contrary thereunto, and the laudable custom of the Church of England; and how also at the time of the contract of the same pretended marriage, and before and long time after, the said king Edward was and stood married, and troth-plight, to one dame Eleanor Butler, daughter to the earl of Shrewsbury, with whom the said king Edward had made a pre-contract of matrimony, long time before he made the said pretended marriage with the said Elizabeth Gray, in manner and form aforesaid \*. Which premisses being true, as in very truth they be true, it appeareth and followeth evidently that the said king Edward during his life, and the said Elizabeth, lived together sinfully and damnably in adultery, against the law

(d) Liberties and laws every Englishman's inheritance.

\* The marriage-contract is by Rapin and other modern historians said to be with Elizabeth Lucy instead of Elizabeth Butler. Tindal.



of God and of his church; and therefore, no marvel that the sovereign lord and head of the land being of such ungodly disposition, and provoking the ire and indignation of our Lord God, such heinous mischiefs and inconveniencies as are above remembered were used, and committed in the realm amongst the subjects. Also it appeareth evidently, and followeth, that all the issue and children of the said king Edward, be bastards, and unable to inherit, or claim any thing by inheritance by the law, and custom of England.

And his children illegitimate.

Moreover, we consider how that afterwards by the three estates of this realm assembled in parliament, holden at Westminster, anno 17, of the reign of the said king Edward IV, he then being in possession of the crown and royal estate, by act made in the same parliament, George duke of Clarence, brother to the king Edward now deceased, was convicted, and attainted of high treason, as in the said act is contained more at large; because, and by reason whereof, all the issue of the said George was, and is disabled, and barred of all right and claim, that in any case they might have, or challenge by inheritance, to the crown and dignity royal of this realm, by the ancient laws and customs of this same realm.

The duke of Clarence attainted by parliament.

His issue thereby not inheritable, but incapable to claim the crown.

Over this, we consider, that you be the undoubted heir of Richard duke of York, very inheritor of the said crown and dignity royal, and as in right king of England by way of inheritance; and that at this time the premises duly considered, there is none other person living but you only that may claim the said crown and dignity royal, by way of inheritance, and how that you be born within this land; by reason whereof, as we deem in our minds, you be more naturally inclined to the prosperity and commonweal of the same; and all the three estates of the land have, and may have more certain knowledge of your birth and filiation aforesaid. We consider also the great wit, prudence, justice, princely courage, and the memorable and laudable acts in divers battles, which as we by experience know you heretofore have done, for the defence and salvation of this realm, and also the great nobleness and excellency of your birth and blood, as of him that is descended of the three most royal houses of Christendom; that is to say, England, France, and Spain (e). Wherefore these premises duly by us considered, we desiring effectually the peace, tranquility, and weal public of this land, and the

Richard III. declared undoubted heir thereto.

(e) His pretended virtues and word of his desperate treasons, fitness to reign as king; his valour in battle; his honourable and royal birth; without one regicides, murders, hypocrisy, and other vices.

reduction of the same to the ancient honourable estate, and prosperity: And having in your great prudent justice, princely courage, and excellent virtue, singular confidence, have chosen by all that in us is; and by that our writing choose you high and mighty prince, our sovereign lord (f), to whom we know of certain it appertaineth of inheritance so to be chosen (g). And hereupon we humbly desire, pray, and require your most noble grace, that according to this election of us the three estates of your land, as by inheritance, you will accept and take upon you the said crown and royal dignity, with all things thereunto annexed and appertaining, as to you of right belonging, as well by inheritance as by lawful election (h); and in case you so do, we promise to assist and serve your highness, as true and faithful subjects and liegemen, and to live and die with you in this matter, and every other just quarrel; for certainly we be determined rather to adventure and commit us to the peril of our lives and jeopardy of death, than to live in such thralldom and bondage as we have done long time heretofore; oppressed and injured by extortions, and new impositions, against the law of God and man, and the liberties and old policy, and laws of this land, wherein every Englishman is inherited (i). Our Lord God, King of all Kings, by whose infinite goodness and eternal providence all things are principally governed in this world, lighten your soul, and grant you grace to do as well in this matter as in all others, that which may be according to his will and pleasure, and to the common and public weal of this land. So that after great clouds, troubles, storms and tempests, the sun of justice and of grace may shine upon us, to the joy and comfort of all true hearted Englishmen (k).

His hereditary title to the crown by the law of God and nature,

Albeit that the right, title, and estate, which our sovereign lord, king Richard III, hath to, and in the crown and royal dignity of this realm of England, with all things thereunto within the same realm, and without it annexed and appertain-

(f) His election by the three estates and this instrument, to be king of England.

(g) They make his hereditary title the ground of their choice.

(h) Their petition and importunity to him to accept of the crown, though himself most eagerly thirsted after it. And his hereditary right thereto secon-

ded by their election.

(i) Their promise to assist, serve, and obey him, upon his acceptance thereof, as his subjects, and to live and die with him. And their pretended great thralldom, bondage, oppressions, &c. under his predecessors. Ibid.

(k) Their prayer for him, and their great trouble, occasioned partly by himself. Ibid. ing,



ing, being just and lawful, as grounded upon the laws of God and nature, and also upon the ancient laws and laudable customs of this said realm; and also taken and reputed as such by all persons, being learned in the abovesaid laws and customs (l).)

Yet nevertheless, forasmuch as it is considered, that the most part of the people is not sufficiently learned in the abovesaid laws and customs, whereby the truth and right in this behalf of likelihood may be hid, and not clearly known to all the people, and thereupon put in doubt and question. And over this, how that the court of parliament is of such authority, and the people of this land is of such a nature and disposition as experience teacheth, that manifestation or declaration of any truth or right, made by the three estates of this realm assembled in parliament, and by authority of the same, maketh before all other things, most faith, and certain quieting of men's minds, and removeth the occasion of doubts, and seditious language (m).

Therefore, at the request, and by the assent of the three estates of this realm, that is to say, the lords spiritual and temporal, and commons of this land, assembled in this present parliament, and by authority of the same, be it pronounced, decreed and declared, that our said sovereign lord the king was, and is the very undoubted king of this realm of England, with all things thereunto within the same realm, and without it, united, annexed, and appertaining, as well by right of consanguinity and inheritance, as by lawful election, consecration, and coronation (n).

And over this, that at the request, and by the assent and authority abovesaid, be it ordained, enacted and established, that the said crown, and royal dignity of this realm, and the inheritance of the same, and all other things thereunto within this realm, or without it, united and annexed, and now ap-

The crown settled and entailed on him and the heirs of his body.

His son declared heir apparent.

(l) The lawyers flatter and approve his title. The common people ignorant in the laws. Brynne.

(m) The parliament's authority with the people, when true, free, and real, consisting of the three estates. Its declaration quieteth all men's minds, removeth all doubts and seditions. Yet he that considers 39 Hen. VI.

[p. 294.] or 1 Ed. IV. [p. 314.] will scarce believe this for a truth, neither proved it so in his own case. The three estates must all concur to make a parliament, and valid election.

(n) They decree and declare him the undoubted king of this realm, by inheritance and their lawful election coupled together.

per-

pertaining, rest and abide in the person of our said sovereign lord the king, during his life, and after his decease in his heirs of his body begotten, in especial at the request, and by assent, and the authority aforesaid, be it ordained, enacted, established, pronounced, decreed and declared, that the high and excellent prince Edward, son of our said lord the king, be heir apparent of the same our sovereign lord the king, to succeed to him in the abovesaid crown and royal dignity, with all things (as is aforesaid) thereunto united, annexed, and appertaining, to have them after the decease of our said sovereign lord the king, to him, and to the heirs of his body lawfully begotten.

‘*Quæ quidem billa communibus regni Angliæ in dicto parlamento existentibus transportata fuit, cui quidem billæ idem communes assensum suum præbuerunt sub hiis verbis:*

*A ceste bille les communs sont assentes; quibus quidem billa & assensu coram domino rege in parlamento prædictio, lectis, auditis, & plene intellectis, & de assensu domini minorum spiritualium & temporalium in dicto parlamento similiter existentium, & communitatis prædictæ; nec non autoritate ejusdem parlamenti pronunciatum, decretum, & declaratum existi, Omnia, & singula in billa prædicta contenta fore vera & indubita; ac idem dominus rex, de assensu dictorum trium statuum regni, & autoritate prædicta, omnia & singula præmissa in billa prædicta contenta concedit, & ea pro vero & indubio pronunciat, decernit, & declarat (o).’*

It is observed by the authors of the Parliamentary History, Vol. II, that this parliament is not introduced in the abridgement of the records, or in the parliament roll, with that formality as most of or all the rest are. There are no writs of summons, nor names of peers; no speech from the throne or from the lord chancellor, declaring the cause of the meeting, nor any speaker to the commons mentioned in it: Neither is there any notice taken of a tax or subsidy; though the tax is said by historians to have been very grievous to the people (p).

There (o) Here he creates and ratifies his own title. was, ‘That whereas the subjects of this realm had of late

(p) So far was this parliament from laying any burthensome tax, that, among many wholesome laws which stand unrepealed to this day, one was likewise enacted, That every



There is no wonder that the act of attainder against the earl of Richmond and his followers, is not to be found on record. Conquest, and succession to the crown soon after, gave him power enough not only to abrogate that act, but even to erase it from the records. And the reason the roll is yet extant may be assigned to the policy of the conqueror, since it conveyed a blot on the house of York, by bastardizing Edward's children.

‘every justice of peace shall have power to admit a prisoner, arrested for Felony, to bail; and that no officer shall seize the goods of a prisoner, arrested for felony, till he be attainted.’

Another act was, ‘That no person shall be impaneled upon juries, but who hath 20 shillings freehold, or 26 shillings and 8 pence copyhold at the least.’

## II. Concerning the Convention of 1653.

**CROMWELL**, on the 20th of April 1653, dissolved the long parliament, which had rendered themselves so famous at home and abroad; and, in conjunction with his council of officers, resolved to summon a select number of persons in England, Scotland, and Ireland, to whom the supreme authority should be delegated by an instrument signed and sealed by himself and the officers, obliging themselves to be obedient to their orders. Pursuant to this resolution, about 140 persons (five of whom were for Scotland, and six for Ireland) were summoned in the general's name only\*, to meet at Whitehall the 4th of July 1653. Being assembled on the day appointed, Cromwell made a long speech to them, shewing the cause of their summons, and that ‘they had a clear call to take upon them the supreme authority of the commonwealth.’ Then he produced an instrument under his own hand and seal, whereby he did, with the advice of his officers, devolve and intrust the supreme authority and government of the commonwealth into their hands, any forty of whom were to be deemed the supreme authority; but not to sit longer than the 3d of November 1654; and, three months before their dissolution, they were to chuse their successors, who were to sit but one year, and so on.

This extraordinary convention having chosen Francis Rouse for their Speaker, by calling him to the chair, and Mr. Scobel for their clerk, they voted themselves to be the par-

\* See the summons, Vol. XI. P. 70. note (t).

parliament of the commonwealth of England, and published a declaration, 'That as they were summoned and required to take upon them the supreme government of England, Scotland, and Ireland, they had judged it meet, for the peace and safety of these nations, to undergo that great burden—That they should endeavour to demean themselves in all things as becomes those who are set by God for the good of all, and to be as tender of the lives, estates, liberties, just rights, and properties of all others, as they were of themselves and their posterities, whom they expected still to be governed by successive parliaments.

This done, they appointed several committees, and amongst these were, 1. For correcting the grievances of the law. 2. For the business of tythes. 3. For trade and corporations. 4. For regulating the commissions of the peace. 5. For prisons and prisoners. 6. For advancement of learning, and receiving all propositions tending thereto (q).

Having voted that all petitions should be presented by some member, they ordered Mr. Scobel, their clerk, to publish a list of their names, that it might be known who were the representatives of the nation, which, by the private manner of their summons, did not appear.

The list was as follows:

#### BEDFORDSHIRE.

Nathaniel Taylor,  
Edward Cater.

Robert Castle,  
Samuel Warner.

#### CHESHIRE.

#### BERKSHIRE.

Samuel Dunch,  
Vincent Goddard,  
Thomas Wood.

Col. Robert Duckenfield.  
Henry Berkhead.

#### CORNWALL.

#### BUCKINGHAMSHIRE.

George Fleetwood,  
George Baldwin.

Col. Robert Bennet,  
Francis Langden,  
Anthony Rous,  
John Bawden.

#### CAMBRIDGESHIRE.

John Sadler,  
Thomas French,

#### CUMBERLAND.

Col. Robert Fenwick.

(q) This seems to vindicate them from the aspersion of being

enemies to learning, and despisers thereof.

DER-



**DERBYSHIRE.**

Jervase Bennet,  
Col. Nathaniel Barton.

**DEVONSHIRE.**

George Moncke, one of the  
generals at sea.

John Carew,  
Major Thomas Saunders,  
Christopher Martin,  
James Erisey,  
Francis Rouse, Speaker (r),  
Richard Sweet.

**DORSETSHIRE.**

Col. William Sydenham,  
Col. John Bingham.

**DURHAM.**

Henry Davison,

**ESSEX.**

Col. Joachim Matthews,  
Henry Barrington,  
John Brewster,  
Christopher Early,  
Dudley Templer.

**GLOUCESTERSHIRE.**

John Crofts,  
William Neaft,  
Robert Holmes.

**HEREFORDSHIRE.**

Wroth Rogers,  
John Herring.

(r) Provost of Eaton Col-  
lege, and member for Truro  
in the late parliament. He

**HERTFORDSHIRE.**

Col. Henry Laurence,  
William Reeve.

**HUNTINGDONSHIRE.**

Col. Edward Montagu,  
Stephen Pheasant.

**KENT.**

Lord viscount Lisle,  
Col. Thomas Blount,  
Col. William Kenrick,  
William Cullen,  
Andrew Broughton.

**LANCASHIRE.**

Col. William West.  
John Sawrey,  
Robert Cunliffe.

**LEICESTERSHIRE.**

Col. Henry Danvers,  
Edward Smith,  
John Pratt.

**LINCOLNSHIRE.**

Sir William Brownlow,  
Richard Cust,  
Barnaby Bowtell,  
Humphry Walcot,  
William Thompson.

**MIDDLESEX.**

Sir William Roberts,  
Augustine Wingfield,  
Arthur Squibb.

published a translation of the  
Psalms.

Lon-

## London.

Ald. Robert Titchburne,  
Ald. John Ireton,  
Samuel Moyer,  
John Langley,  
Capt. John Stone,  
Henry Barton,  
Praise-God Barbone.

## MONMOUTHSHIRE.

Col. Philip Jones.

## NORFOLK.

Robert Jermy,  
Tobias Frere,  
Ralph Wolmer,  
Henry King,  
William Burton.

## NORTHAMPTONSHIRE.

Sir Gilbert Pickering, Bt.  
Thomas Brooke.

## NORTHUMBERLAND.

Henry Ogle.

## NOTTINGHAMSHIRE.

John Odinfels,  
Edward Cludd.

## OXFORDSHIRE.

Sir Charles Wolfesey,  
William Draper,  
Dr. Jonathan Goddard.

## RUTLANDSHIRE.

Major Edward Horseman.

## SHROPSHIRE.

William Bottrell,  
Thomas Baker.

## SOMERSETSHIRE.

Robert Blake, one of the  
generals at sea,  
Col. John Pine,  
Dennis Hollister,  
Henry Henley.

## SOUTHAMPTONSHIRE.

Col. Richard Norton,  
Richard Major,  
John Hildesley.

## STAFFORDSHIRE.

George Bellot,  
John Chetwood.

## SUFFOLK.

Jacob Caley,  
Francis Brewster,  
Robert Dunkon,  
Col. John Clark,  
Edward Plumstead.

## SURREY.

Samuel Highland,  
Lawrence March.

## SUSSEX.

Anthony Stapeley,  
William Spence,  
Nathaniel Studeley.

## WARWICKSHIRE.

John St. Nicholas,  
Richard Lucy.

## WESTMORELAND.

Col. Charles Howard.

## WILTSHIRE.

Sir Anthony Ashley Cooper,  
Ni-



Nicholas Green,  
Thomas Eyre.

WORCESTERSHIRE.

Major Richard Salway,  
Col. John James.

YORKSHIRE.

George Lord Eure,  
Walter Strickland,  
Francis Lafcelles,  
John Anlaby,  
Thomas Dickenson,  
Thomas St. Nicholas,  
Roger Coats,  
Edward Gill.

W A L E S.

Buffy Manfell,  
James Phillips.

John Williams,  
Hugh Courteney,  
Richard Price,  
John Brown.

S C O T L A N D.

Sir John Hope, of Hopton,  
Alexander Brodie,  
John Swinton,  
William Lockhart,  
Alexander Jeffrys.

I R E L A N D.

Sir Robert King,  
Col. John Hewson,  
Col. Henry Cromwell,  
Col. John Clark,  
Col. Daniel Hutchinson,  
Vincent Gookin.

The characters of these persons are variously represented by the historians of those times. By the lord Clarendon, and other contemporaries, and by our modern historians, who implicitly copy their invectives and mistakes, they are styled (except a few gentlemen) illiterate, foolish, low mechanics, fanatics, the dregs of the human species, enthusiasts, and are said to be enemies to the clergy, and to look upon the function itself as Anti-christian, and the payment of tythes as absolute Judaism; to deem learning unnecessary and heathenish; and to intend to abrogate the law and establish the Mosaical institution. And as to their proceedings, they are passed over with the utmost neglect. It is said, that they never entered upon any grave and serious debate that might tend to any settlement; and Rapin himself, with the other moderns, falls into the same error, affirming, 'that this 'ridiculous assembly, in above a five-months session, did nothing remarkable. Nor have historians mentioned scarce any thing more than their meeting and dissolution.

On the contrary, Whitlock says, that many of this assembly were persons of fortune and knowledge. And Ludlow remarks, 'that this assembly being composed, for the 'most part, of honest and well-meaning persons, who 'thought themselves in full possession of the power and authority

'thority of the nation, and therefore proceeded to the making of laws relating to the public.'

These are the different characters and representations of this convention: And as by the laws they made, and the bills they were employed about at the time of their dissolution, it will best appear whether they do or do not deserve all that ignominy which hath been thrown upon them, an account of some of their proceedings shall be laid before the reader, as taken from their journals (which are printed with the same exactness as any of the preceding legal parliaments) and from other authorities of the times (f).

Act for the relief of creditors and debtors.

Upon a petition from insolvent debtors within the several tyrannical dens of cruelty (the prisons and goals) an act was passed for the relief of creditors, and poor debtors, worthy of the best of times (t).

Having

(f) The journals were published to prevent false or imperfect accounts being obtruded upon the publick. Besides these, was published 'An exact relation of the proceedings and transactions of the parliament which began July 4, 1653, by a member thereof.' See the Parliamentary History, Vol. XX. p. 181.

(t) An abstract of the most important clauses of this act:

Seventeen commissioners were appointed to act as judges in the case of prisoners in the Upper Bench prison, the Fleet, the Gatehouse in Westminster, the Counter in Surry, or prison in White chapel; with power to examine, and determine in a summary way, concerning the causes of such persons imprisonment, their escapes and their estates; and to act as commissioners of bankrupts, who were to be allowed two-pence in the pound out of the money arising by the sale of such prisoners estates, for the charges of them and their clerks. A certain

number of persons were also appointed to act in the same capacity for each county in England and Wales, with an allowance of six-pence in the pound.

Prisoners not paying their debts in six months to be deemed bankrupts; and in case of settlement of any part of a prisoners estate in trust for himself or any other person, after the debt contracted or judgment obtained, these commissioners were empowered to sell the estate, and to fine any other person aiding or assisting in such fraud; and persons not able to pay such fine, were to be adjudged to the pillory or workhouse.

Prisoners able to pay their debts, and refusing to do, were, if these commissioners thought fit, to be ordered to close imprisonment: The estates of any person for whose debts another should be imprisoned, were to be sold as fully as the estate of the prisoner himself; and where a prisoner made an escape, his estate not being sufficient to discharge his debts, the



Having taken into consideration the state of the high court of chancery, it was resolved, after a two days debate, <sup>The court of chancery voted down.</sup> That the court of chancery should be taken away, and that the committee of law should consider how the causes now depending in chancery might be determined, and likewise a provision made for the deciding matters of equity for the future within the jurisdiction of that court (a).

Not

the goaler and his security were to make good the deficiency: But in case of prisoners, against whom there had not been any declarations filed, these commissioners were to discharge them, and to give them damages for such vexatious imprisonment.

In order to prevent prisoners, unable to pay their debts or fines, from perishing in prison, through the cruelty or obstinacy of any obdurate creditor, these commissioners were empowered to discharge, abate, or give respite of time to any such prisoner, according as the circumstances of the case might require; and to remove to the workhouse or house of correction, any obstinate prisoner, who should be found to lye in prison through his own wilful default; or to have run in debt by a vicious course of life. They were also authorized to examine into the case of persons who had fraudulently got out of goal by means of former acts for relief of insolvent debtors, and to recommit them. They were to inquire into the abuse of charities given to prisoners, and to punish the same; to make orders for selling wholesome provisions to the prisoners at a reasonable price; and to cause a table of moderate fees to be hung up in every prison, and any per-

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son taking more, was to forfeit fourfold to the party injured, and to be set on the pillory: And in case of the death of a prisoner before his debts were paid, they were empowered to sell his estate for payment thereof: And though prisoners enlarged by this act were not liable to be arrested for debts due before, yet their estates were to remain subject to their creditors satisfaction.

Lastly, These commissioners were not to be responsible for their conduct but to parliament; and in case of any difficulty, wherein they might apprehend they had not sufficient power for the relief of just creditors or poor prisoners, they were to certify the same to the house, with their opinion what further provision was necessary to be made.

(a) The arguments on this subject, omitted by Whitlock and others, are thus given by the anonymous author of the Exact Relation abovementioned. He says, 'That in the course of the debate, the court of chancery was called, by some members, the greatest grievance in the nation: Others said, That for dilatoriness, chargeableness, and a faculty of bleeding the people in the purse-vein, even to their utter perishing and undoing, that court might com-

T

pare

A new body  
of laws to  
be con-  
sidered.

Not content with this, they took into consideration the state of the law in general, and resolved that the committee should consider of a new body of the law; and every Friday was set apart for this affair, which occasioned great debates (b).

Upon

pare with, if not surpass, any court in the world: That it was confidently affirmed by knowing gentlemen of worth, that there were depending in that court twenty-three thousand causes, some of which had been there depending five, some ten, some twenty, some thirty years, and more: That there had been spent therein many thousands of pounds, to the ruin, nay utter undoing of many thousands of families: That no ship almost that sailed in the sea of the law, but first or last put into that port; and, if they made any considerable stay there, they suffered so much loss, that the remedy was as bad as the disease: That what was ordered one day was contradicted the next, so as in some causes there had been five hundred orders and more. That when the purses of the clients began to be empty, and their spirits were a little cooled, then, by a reference to some gentlemen in the country, the cause so long depending, at so great a charge, came to be ended; so that some members did not stick to term the chancery a mystery of wickedness, and a standing cheat. And that, in short, so many horrible things were affirmed of it, that those who were, or had a mind to be advocates for it, had little to say on the behalf of it; and so at the end of one day's debate, the question being put, it was voted down.

(b) The anonymous author (who was present) gives the following account of the debates:

'The clerk of the house, in drawing up the question, put the word 'Body' instead of 'Model', which some members, friends to this vote, desired to have altered; but others, lovers of the law as it now stood, opposed the alteration of the word, being very angry at the vote; and so it went as it was, with some seeming disadvantage, by means of the word 'Body', which some of these aforesaid angry gentlemen would needs fancy, and accordingly reported, as if it were intended to destroy and take away the laws we had been fighting for all this while as our birth-right and inheritance; and such a noise was made about it, that made many believe that the house was made up of monsters, rather than men of reason and judgment: But there were some very sober and moderate gentlemen, in the account of all men, that concurred heartily in this vote.

Some of the reasons that were alledged in the debate producing this vote, was the intricacy, uncertainty, and incongruity in many things, with the word of God and right reason, in the laws as they now are.

First, That whereas the laws ought to be easy, plain, and short,



Upon receiving petitions for and against the abolition of Concerning  
tythes, the committee was ordered to sit twice a week, and tythes.  
con-

short, so that they who were to be subject to them, and have benefit by them, might be able to know and understand them in some good measure; they are now so voluminous, and thereby intricate and uncertain, dark and concealed, as few are able to come to the knowledge of them. Those of the profession of the law differ, in very many cases, what the law is, and are of several opinions about this thing and the other; and then how should others, though highly concerned, be able to understand them, and their interest therein contained; there being so many law-books of great bulk, so many old musty records, reports and book cases, as that, after the time spent in school-learning, the rest of the time of the flower of a man's years would be little enough to read them over and peruse them.

That, besides, those records and book-cases are very ill guides or lights to go by, for who knoweth the circumstances that did attend them, which often alter the whole case? Who knoweth whether, in those cases, bribery did not make the judgment, or the powerfulness of some great man, or the love or hatred of the judge, or the negligence or corruption of the advocate? And, besides, in those law-cases, some precedents are directly contrary to others; and an advocate or council alledgeth one case or report, and another another; and then the judge fol-

loweth which he pleaseth: How arbitrary is the law in this case? And at what uncertainty are the great interests and properties of men?

Besides, how various are the customs which, notwithstanding, pass for laws? usually unknown but to some old men of the place; which, though it be ever so unrighteous and unreasonable, 'Time out of mind' carries it. How bulky and voluminous are the statute-books? and of so great a price that few are able to buy them; and so large that few can spare time to read them, to know their right, and how they are concerned in them; and yet they must be judged, and stand or fall by them. And many times some musty statute, of a hundred years old and more imprinted, is found and made use of by some crafty lawyer, to the undoing of an honest man that meant no hurt, nor knew any thing at all of the danger.

Upon something held forth to this effect, the vote was first carried for a new body or model of the law; and a committee chosen to that end, who met often, and had the help of some gentlemen of worth, that had deserved well of their country, being true patriots; who liked well the thing, as very useful and desirable, it being not a destroying of the law, or putting it down, as some scandalously reported, but a reducing the wholesome, just and good laws into a body, from them  
that

consider of the property of incumbents in tythes, as also the case of proprietors of impropriated tythes, and report the same

that are useless and out of date; such as concerned the bishops and holy church, so called, and were made in favour of kings, and the lusts of great men, of which there are very many. If the law of God be eyed, and right reason looked into in all, there be some laws that are contrary to both, as the putting men to death for theft, the sparing the lives of men for murder, under the notion and name of manslaughter; a term and distinction not found in the righteous law of God: And that unreasonable law, that if a waggon or cart, &c. driven by the owner, or some other, with never so much care, fall and kill any person, the owner, though it were his own son or servant, that could no way help it, shall lose his horse and waggon, by the profane and superstitious name of Deodand; and the owners of the goods shall lose them also upon the same account, though they were as innocent as Abel. Other instances might also be given.

The way the committee took in order to their work, which must needs be elaborate, was by reducing the several laws to their proper heads to which they did belong, and so modelizing or embodying of them; taking knowledge of the nature of them, and what the law of God said in the case, and how agreeable to right reason they were; likewise how proportionable the punishment was to the offence or crime; and wherein there seem-

ed any thing either deficient or excessive, to offer a supply and remedy, in order to rectifying the whole. The committee began with criminals; treason being the highest, they considered the kinds thereof; what was meet to be adjudged treason in a free commonwealth, and what was meet to be the punishment of grand and petty treason. Then they proceeded to murder, the kinds of it, and what was to be so adjudged, and the punishment thereof. The like they intended concerning theft, and after to have ascertained and secured property; as also the executive part of the law; so as a person should not need to part with one property to secure and keep another, as now it is; persons being forced to lose the property of their cow, to keep the property of their horse; or one parcel of land to preserve and keep another. This body of law, when modelized, was to be reported to the house to be considered of, and passed by them as they should see cause: A work in itself great, and of high esteem with many, for the good fruit and benefit that would arise from it: By which means the huge volumes of the law would come to be reduced into the bigness of a pocket-book, as it is, proportionably, in New-England and elsewhere. A thing of so great worth and benefit as England is not yet worthy of, nor likely in a short time to be so blessed as to enjoy. And that was the true end and endeavour of



same to the house. Soon after, a bill was ordered to be brought in for taking away the power of patrons to present to benefices. This was followed by the report of the committee of tythes, consisting of three articles. The substance of the two first was, ' That commissioners should be sent ' into all the counties, divided into six circuits, three in each ' county to join with four or six of every county, and should ' have power to eject all ministers who were not of good ' behaviour or unable to teach——And to settle able persons ' in their room, and unite two or three parishes together ' that were not above three miles from the place of public ' meeting.——Then followed the names of 21 commissioners, consisting of ten clergymen and eleven laymen.'

By the third article, ' All persons approved on as public ' preachers of the Gospel in the public meeting places, were ' to enjoy the maintenance already settled by law, and such ' other encouragement as the parliament had already appointed, or thereafter should appoint: And that where ' any scrupled payment of tythes, the three next justices of ' peace, or two of them, should, upon complaint, call the ' parties concerned before them; and, by the oaths of lawful witnesses, should duly apportion the value of the said ' tythes to be paid either in money or land, by them to be ' set out according to the said value, to be held and enjoyed by him that was to have the said tythes; and in case ' such apportioned value was not duly paid or enjoyed, according to the order of the said justices, the tythes should ' be paid in kind, and should be recovered in any court of ' record.

' Lastly, That upon hearing and considering what had ' been offered to the committee touching property in tythes, ' of incumbents, rectors, possessors of donatives or impropriate tythes, it was the opinion of the committee, that ' the said persons have a legal property in tythes (c).'

One

of those members that laboured in that committee, although it was most falsely and wickedly reported, that their endeavours tended to destroying the whole laws, and pulling them up by the roots.'

(c) The authors of the Parliamentary History take notice of a very high charge brought

against this convention by the lord Clarendon (which has been copied by others) His lordship says it was proposed, ' That all lands belonging to the universities, and colleges in those universities, might be sold; and that the money arising thereby should be disposed of for the public service, and to ease the people

Act about  
marriages.

One of their most remarkable transactions, was, the act concerning marriages, births, and burials: By this extraordinary act, marriages were entirely taken out of the hands of the clergy, and put into those of the justices of the peace (d).

Be-

people from payment of taxes and contributions. — But, upon a strict review of the Journals, it does not appear that any such motion or proposal, relating to the universities, was ever made in the house. What might be intended by some zealots, we pretend not to determine: But the only attempt that carried any tendency that way, was the scheme for abolishing of tythes: And this project, as we are assured by a member of this convention, was so far from being intended to the prejudice of the parochial clergy, that the design was only to take away the manner of maintenance by tythes, as unequal, burdensome, and being the occasion of litigious law-suits; and that a bill was offered, on the day of the parliament's resignation, for rendering the revenues of the clergy more certain and equal, by reducing benefices of 200*l.* a-year and upwards, and advancing those of a smaller income; and also for making a provision for the widows and children of ministers; but that this equitable proposal was refused a reading; and that therefore the charge against one part of the house, of an intent to destroy the ministry, was a groundless reproach, cast upon those who endeavoured only to take off oppressions and grievances. — The truth of this gentleman's assertion seems the less liable to

be controverted, because it is an incontestable fact, though generally passed over by the historians of those times, 'That the long parliament, when they abolished Episcopacy, and sold the temporal revenues of the bishops, deans and chapters, &c. made an express reserve of all their impropriations, which were to be applied to the increase of the revenues of the parochial clergy and heads of colleges; and the same reserve of impropriations was made in the act passed by this convention, for enabling delinquents to compound for their estates. The journals also abound with instances, wherein those gentlemen, who had the misfortune to be under sequestration for their loyalty to the king, were obliged to endow the respective vicarages of which they were impropriators, with a portion of the tythe; and the value of such portion, upon a calculation of years, was allowed in part of payment of their compositions.'

(d) This act well deserves notice, of which the most material clauses were these:

That all persons in England or Ireland, intending to be married, should, twenty-one days at least before, deliver in writing to the register appointed by this act for the parish where each party to be married live, with their names, surnames, additions, and places of abode; and of



Besides these transactions, there were several bills in agitation when the convention was dissolved: ' A bill for incorporating

of their parents, guardians, or overseers; all which the said register shall publish three several lord's days then next following, at the close of the morning exercise, in the church or chapel; or, if the parties to be married desired it, in the market-place next adjoining thereto, on three market-days, in three several weeks next following, between the hours of eleven and two; which being done, the register shall, upon request of the parties concerned, make a certificate of the due performance thereof, without which such marriage shall not proceed: And if any exception be made thereto, the register shall insert the same, with the name of the person making such exception, and their place of abode, in the certificate of publication.

All persons intending to be married, shall come before some justice of peace of the same county, city, or town corporate, where publication hath been made, and bring a certificate thereof, with proof of the consent of their parents or guardians, if either of the parties be under the age of twenty-one years: And the justice shall examine, upon oath, concerning the truth of the certificate, and due performance of all the premises, and of any exception arising; and, if there be no reasonable cause to the contrary, the marriage shall proceed in this manner:

The man, taking the woman

by the hand, shall distinctly pronounce these words, " I A. B. do here in the presence of God, the searcher of all hearts, take thee C. D. for my wedded wife; and do also in the presence of God, and before these witnesses, promise to be unto thee a loving and faithful husband."

And then the woman, taking the man by the hand, shall also distinctly pronounce these words, " I C. D. do here in the presence of God, the searcher of all hearts, take thee A. B. for my wedded husband; and do also in the presence of God, and before these witnesses, promise to be unto thee a loving, faithful, and obedient wife."

The man and woman having made sufficient proof of the consent of their parents or guardians, and expressed their consent to marriage, in the manner and words aforesaid, before such justice of peace, in the presence of two or more credible witnesses, he shall declare them to be from thenceforward husband and wife; and, after such consent so expressed, and such declaration made, the same shall be good and effectual in law; and no other form of marriage shall be accounted valid according to the laws of England: But the justice of peace, in case of dumb persons, may dispense with pronouncing the words aforesaid; and with joining hands, in case of persons that have no hands.

porating Scotland into one commonwealth with England.—  
For making those persons incapable of places who should fol-

A book of vellum or parchment shall be provided for the registering of all such marriages, and of all births of children, and burials of all sorts of people, within every parish; for the safe keeping of which, the inhabitants and householders chargeable to the poor, shall make choice of some able and honest person, to be approved by one justice of the peace of the county, and so signified under his hand in the said register-book, to have the keeping thereof, who shall therein enter all such publications, marriages, births of children, and burials of all sorts of persons, and the names of every of them, and the days of the month and year thereof, and the parents, guardians, or overseers names: And for such publication and certificate, the register shall be paid 1 s. also 1 s. for the entry of every marriage; for every birth of a child 4 d. and for every death 4 d. But for publications marriages, births, or burials, of poor people, who live upon alms, nothing shall be taken. And the justice of peace, if desired, shall give a certificate on parchment, under his hand and seal, of such marriage, and of the day of the solemnization thereof, and of two or more of the witnesses then present, for which his clerk to receive 1 s. And if such certificate shall be produced to the clerk of the peace for that county, and request made to him to make an entry thereof, he shall enter the same in a book of parchment to

be provided for that purpose, and kept amongst the records of the said sessions, for which he may receive 4 d.

If any person shall, by violence or fraud, steal or take away any one, under the age of 21 years, or cause so to be done, with intent of marriage, he shall forfeit his whole estate, real and personal; one half to the commonwealth, and the other to the party so taken away; and farther suffer close imprisonment, and be kept to hard labour in some house of correction during life: And every person convicted of aiding or abetting any such violence or fraud, shall be imprisoned and kept to hard labour for the space of seven years: And any pretended marriage obtained by such violence and fraud, shall be null and void.

Where any guardian shall betray his trust touching any child, by seducing, selling, or otherwise wilfully putting such child into the hands or power of any person to marry such child, without his or her free consent, such guardian shall forfeit double the value of such child's portion, one moiety thereof to the commonwealth, and the other to the child so married.

The age for a man to consent unto marriage shall be 16 years, and the age of a woman, 14.

Controversies touching contracts and marriages to be determined at the general quarter sessions of the peace.

The



sollicit for them.——For regulating the great exorbitance of fees in law or elsewhere, and for the better election of jurors.——For making provision for the dispatch of the causes depending in chancery, and determining suits of equity for the future in a summary way, so as the expence should not, in general, exceed 30 or 40 shillings.' It was also resolved to reduce the number of officers in the excise and other duties, and lower the salaries, in order to a saving of the public charge.

But all these great matters were left unfinished, by reason of their sudded dissolution.

It is observed by some of our latest historians, that it was usual in those days for the saints to change their names from Peter, John, Henry, &c. into the Old-Testament names of Hezekiah, Habbukuk, Obadiah, &c. and sometimes into godly sentences (d).

It is very remarkable, that even this mark of folly and enthusiasm (though said to be so very common) cannot be fixed upon the members of this convention, among whom, as appears by the list, there is but one single instance of the last sort of names; which served, however, to give them all the contemptuous name of Praise-God Barebone's parliament.

The dissolution of this assembly was as remarkable as the summons: The journals, as well as Whitlock, only take notice of the suddenness of it; but Ludlow, in his Memoirs, is more full in this matter, as appears by the following extract.

The manner of the dissolution.

Vol. II. p. 471.

The perfidious Cromwell having forgot his most solemn professions and former vows, as well as the blood and treasure that had been spent in this contest, thought it high time to take off the mask; and resolved to sacrifice all our victories and deliverances to his pride and ambition, under colour of taking upon him the office, as it were, of a high constable, in order to keep the peace of the nation, and to restrain men from cutting one another's throats. One diffi-

The following remarkable clause was proposed but rejected, 'That if any person then married, or to be married according to this act, should make proof, by one or more credible witness upon oath, that either the husband or wife had committed the detestable sin of adultery during

such marriage, then the said parties might be divorced by the sentence of three justices of the peace.'

(d) Such as Faint-not, Kill-fin, God-reward, &c. Mr. Hume, in his late history, has inserted a whole jury of the like names, Vol. II. p. 51.

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culty yet remained to obstruct his design, and that was the convention which he had assembled, and invested with power, as well as earnestly solicited, to reform the law, and reduce the clergy to a more evangelical constitution. And having sufficiently alarmed those interests, and shewn them their danger from this convention, he informed them farther, that they could not be ignorant of the confusion that all things were brought into by the immoderate zeal of those in authority, and to what extremities matters might be reduced, if permitted to go on; possibly, said he, to the utter extirpation of law and gospel; and therefore advised that they would join their interests to his, in order to prevent this inundation. His proposition was readily embraced by the corrupt part of the lawyers and clergy, and so he became their protector, and they the humble supporters of his tyranny. But that his usurpation might seem less horrid, he so contrived it by his instruments, that some of the convention must openly manifest their disapprobation of their own proceedings; and, under divers specious pretences, put a period to their sitting.

To this end it was agreed by Mr. Rouse, chairman to that assembly, and the rest of Cromwell's junto, to meet earlier in the house than usual, which was done accordingly on the 12th of December, 1653, hoping, by surprize, to obtain a vote for their dissolution: Being met, Col. Sydenham, Sir Charles Wolseley, and others, according to their instructions, bitterly inveighed against the transactions of the convention; and particularly charged them with a design to destroy the army, by not making a sufficient and timely provision for their pay. They alledged, That though they had voted them a sum of money, yet having resolved to raise it by way of a pound-rate, it would take up so much time to bring it in, that the army must either starve by want, or oppress the country by free-quarter. A second ground of their invectives was taken from a motion made, that the great officers of the army should serve without pay for one year. They accused them also of endeavouring to destroy the clergy, the law, and the property of the subject; instancing in their denying a right of presentation to the patrons of ecclesiastical benefices: And, in general, that they had not a frame of spirit to do justice, which they would have made out by their not relieving Sir John Stawell, when he made his application to them. Thus they endeavoured to cajole the clergy, lawyers, cavaliers, and all interests, except that which they should have had most regard to.

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They thought to have prevented any debate about their design, by meeting so early in the morning; but they were deceived, and enough found in the house to answer their objections. To that concerning the army it was said, That the pound-rate was found to be the most equal way of raising money, and therefore resolved upon by them; not at all doubting that it would come in soon enough for the soldiers supply: That they thought it reasonable and just, that the great officers of the army, who were possessed of plentiful estates, and had received all their arrears, should abate somewhat of their superfluities, and serve for a little time freely, as well as those who were employed in civil affairs, whose labour and hazard was as great, and both equally concerned in the public good; especially considering how much this conduct would contribute to the ease and satisfaction of the people, who could not be ignorant that there were now no pressing occasions of charge or danger, the enemy being every where entirely subdued. To what had been done in order to a reformation of the law and clergy, it was answered, That as they conceived there was great need of it, so they had been told that they were called together principally for that end; and that if they had done any thing too much therein, the gentlemen who blamed them for it were very unfit so to do, having themselves been the men that pressed them continually to go much farther than they had done. To the objection concerning presentations, they said, That the method used therein seemed to them too unreasonable to be continued; it being, in effect, to give a power to the greatest of the parish, who were not always the best, to prescribe what religion they pleased to the parishioners, by presenting a person, howsoever unfit for that office, to be their minister. Lastly, in answer to the charge of denying relief to Sir John Stawell, it was answered, That the consideration of that matter was before them, and that they would not have failed to act as his case deserved.

To this account, the authors of the Parliamentary History Vol. XX. add the following particulars, collected from three different p. 242. members, who are said to be present at the dissolution.

As soon as the speaker had taken the chair, a member stood up, and spoke to this effect: 'That he must disburden himself of some things that had a long time laid upon his heart: That he was now to speak to the Esse, or Being, rather than the Bene esse, or Well-being, of the commonwealth; which was ready to sink, through the ill management of the authority intrusted to that assembly; and that,

for

for his own part, he must resign his power from whence he had it; foreseeing clearly, that their waitings and expectations of ever coming on to things of public good, were more and more disappointed: [He then instanced the particulars touching the army, the clergy, the law, &c. as before recited] And that, for these considerations, he could not satisfy himself to sit any longer in the house, and so be guilty of bringing confusion and dissolution upon the nation: But if any would yet be so hardy as to continue there, he would say unto them, in the words of the prophet, "Ephraim hath joined himself to idols; let him alone."

This motion being seconded by two more, with some bitter invectives, another member stood up; and (declaring himself to speak with much disadvantage, in that he had not, as the other gentleman, any premeditated thing to say) told the speaker, 'He had in his hand an expedient in reference to the things comprehended in the vote of the 10th of December, concerning tythes, which he hoped would satisfy all; and that the committee for regulating the law had ready to be offered to the house, several bills of very great concernment to the good and ease of the people; protesting before God, angels, and men, his dissatisfaction to the proposed resignation, as being destructive to the commonwealth.' Some gentlemen standing up to second him, were not suffered to speak. Others continued to press the former motion, insisting, 'That it was not now a time to debate.' Whereupon the speaker, though earnestly called on to keep the chair, left it; and the serjeant, as if he had been of his council, took up the mace, and carried it before him, though much urged to the contrary. These were instantly joined by the chief clerk, and followed by about 80 members, who went directly to Whitehall, and there subscribed a resignation of their power to the lord-general. Thirty odd staid in the house till colonel Goffe and major White came in, and intreated them earnestly to go out. To which it was as earnestly replied, That at their personal request they could not, nor would not, withdraw, unless compelled by force. Whereupon the officers calling in a file of musketeers, the members withdrew; and some of these went, three or four days after, and subscribed the instrument of resignation.

When this instrument, so signed, was brought to Cromwell, he lifted up his eyes with astonishment; and, with no less seeming modesty, refused to receive it; but, at length, through the importunity of major-general Lambert and others, representing to him that the welfare of the nation



absolutely required his acceptance of the parliament's resignation, he thought fit to comply with their request. — Tho' it is the concurrent opinion of all contemporary writers, that Cromwell's refusal to accept of this offer of the legislative power was meer hypocrisy, and that this formal surrender of it was a contrivance of his own, in order to pave the way to the protectorate; yet in a speech made to the ensuing parliament, Sept. 12, 1654, he positively affirms, in the most solemn manner, 'That he was so far from having any hand in this project, that he was an absolute stranger to the design, till the speaker, with the major part of the house, came to him with the instrument of their resignation.'

That Cromwell might not know of the resignation may possibly be true, but that he had resolved the dissolution of this assembly is very certain, from his producing, four days after, a plan of government, the forming of which must have taken up a much longer time.

After this account of the convention of 1653, the reader will be enabled to judge of the prejudice and partiality of the historians in their characters of the members, and their omissions of the more material proceedings.

Cromwell having accepted the resignation of the supreme authority, it was resolved in a council of the officers that he should be chosen lord-protector of the three nations. Accordingly, on the 16th of December, four days after the dissolution, his inauguration was performed with great solemnity, during which, the following plan of government was read and sworn to by him:

**THE GOVERNMENT of the COMMONWEALTH of England, Scotland, and Ireland, and the dominions thereunto belonging.**

I. **T**HAT the supreme legislative authority of the commonwealth of England, Scotland, and the dominions thereunto belonging, shall be and reside in one person, and the people assembled in parliament; the style of which person shall be, "The Lord Protector of the Commonwealth of England, Scotland, and Ireland." Whitlock  
P. 553.

II. That the exercise of the chief magistracy, and the administration of the government over the said countries and dominions, and the people thereof, shall be in the lord protector, assisted with a council, the number whereof shall not exceed 21, nor be less than 13.

III.

III. That all writs, process, commissions, patents, grants, and other things, which now run in the name and style of "The Keepers of the Liberty of England by Authority of Parliament," shall run in the name and style of "The Lord Protector," from whom, for the future, shall be derived all magistracy and honours in these three nations; and have the power of pardons (except in case of murders and treason) and benefit of all forfeitures for the public use; and shall govern the said countries and dominions in all things by the advice of the council, and according to these presents and the laws.

IV. That the lord protector, the parliament sitting, shall dispose and order the militia and forces, both by sea and land, for the peace and good of the three nations, by consent of parliament; and that the lord protector, with the advice and consent of the major part of the council, shall dispose and order the militia for the ends aforesaid in the intervals of parliament.

V. That the lord protector, by the advice aforesaid, shall direct in all things concerning the keeping and holding of a good correspondency with foreign kings, princes, and states; and also, with the consent of the major part of the council, have the power of war and peace.

VI. That the laws shall not be altered, suspended, abrogated, or repealed, nor any new law made, nor any tax, charge, or imposition laid upon the people, but by common consent in parliament, save only as is expressed in the 30th article.

VII. That there shall be a parliament summoned to meet at Westminster upon the third day of September, 1654, and that successively a parliament shall be summoned once in every third year, to be accounted from the dissolution of the present parliament.

VIII. That neither the parliament to be next summoned, nor any successive parliaments, shall, during the time of five months, to be accounted from the day of their first meeting, be adjourned, prorogued, or dissolved, without their own consent.

IX. That as well the next as all other successive parliaments, shall be summoned and elected in manner hereafter expressed; that is to say, the persons to be chosen within England, Wales, the isles of Jersey, Guernsey, and the town of Berwick upon Tweed, to sit and serve in parliament, shall be, and not exceed, the number of 400. The persons to be chosen within Scotland, to sit and serve in parliament,



liament, shall be and not exceed, the number of 30: And the persons to be chosen to sit in parliament for Ireland, shall be, and not exceed, the number of 30.

X. That the persons to be elected, to sit in parliament from time to time, for the several counties of England, Wales, the isles of Jersey and Guernsey, and the towns of Berwick upon Tweed, and all places within the same respectively, shall be according to the proportions and numbers hereafter expressed: That is to say,

BEDFORDSHIRE	5	Weymouth and Mel-	1
Bedford town	1	comb-Regis	1
BERKSHIRE	5	Lyme-Regis	1
Abingdon	1	Pool	1
Reading	1	DURHAM	2
BUCKINGHAMSHIRE	5	City of Durham	1
Buckingham town	1	ESSEX	13
Aylebury	1	Malden	1
Wycomb	1	Colchester	2
CAMBRIDGESHIRE	4	GLOUCESTERSHIRE	5
Cambridge town	1	Gloucester	2
Cambridge university	1	Tewksbury	1
Isle of Ely	2	Cirencester	1
CHESHIRE	4	HEREFORDSHIRE	4
Chester	1	Hereford	1
CORNWALL	8	Leominster	1
Launceston	1	HERTFORDSHIRE	5
Truroe	1	St. Alban's	1
Penryn	1	Hertford	1
Eastflow and Westflow	1	HUNTINGDONSHIRE	3
CUMBERLAND	2	Huntingdon	1
Carlisle	1	KENT	11
DERBYSHIRE	4	Canterbury	2
Derby town	1	Rocheſter	1
DEVONSHIRE	11	Maidſtone	1
Exeter	2	Dover	1
Plymouth	2	Sandwich	1
Clifton, Dartmouth,	1	Queenborough	1
Hardneſs		LANCASHIRE	4
Totneſs	1	Preſton	1
Barnſtable	1	Lancaſter	1
Tiverton	1	Liverpool	1
Honiton	1	Mancheſter	1
DORSETSHIRE	6	LEICESTERSHIRE	4
Dorcheſter	1	Leiceſter	2

## A P P E N D I X.

LINCOLNSHIRE	—	10	Isle of Wight	—	2
Lincoln	—	—	Andover	—	1
Boston	—	—	SUFFOLK	—	10
Grantham	—	—	Ipswich	—	2
Stamford	—	—	Bury St. Edmund's	—	2
Great Grimsby	—	—	Dunwich	—	1
MIDDLESEX	—	—	Sudbury	—	1
London	—	—	SURREY.	—	6
Westminster	—	—	Southwark	—	2
MONMOUTHSHIRE	—	—	Guilford	—	1
NORFOLK	—	—	Ryegate	—	1
Norwich	—	—	SUSSEX	—	9
Lynn-Regis	—	—	Chichester	—	1
Great-Yarmouth	—	—	Lewes	—	1
NORTHAMPTONSHIRE	—	—	East-Grinstead	—	1
Peterborough	—	—	Arundel	—	1
Northampton	—	—	Rye	—	1
NOTTINGHAMSHIRE	—	—	WESTMORELAND	—	2
Nottingham	—	—	WARWICKSHIRE.	—	4
NORTHUMBERLAND	—	—	Coventry	—	2
Newcastle upon Tyne	—	—	Warwick	—	1
Berwick	—	—	WILTSHIRE	—	10
OXFORDSHIRE	—	—	New Sarum	—	2
Oxford city	—	—	Marlborough	—	1
Oxford university	—	—	Devizes	—	1
Woodstock	—	—	WORCESTERSHIRE	—	5
RUTLANDSHIRE	—	—	Worcester	—	2
SHROPSHIRE	—	—	YORKSHIRE.	—	—
Shrewsbury	—	—	West-Riding	—	6
Bridgnorth	—	—	East-Riding	—	4
Ludlow	—	—	North-Riding	—	4
STAFFORDSHIRE	—	—	City of York	—	2
Lichfield	—	—	Kingston upon Hull	—	1
Stafford	—	—	Beverley	—	1
Newcastle under Line	—	—	Scarborough	—	1
SOMERSETSHIRE	—	—	Richmond	—	1
Bristol	—	—	Leads	—	1
Taunton	—	—	Halifax	—	1
Bath	—	—			
Wells.	—	—			
Bridgwater	—	—			
SOUTHAMPTONSHIRE	—	—			
Winchester	—	—			
Southampton	—	—			
Portsmouth	—	—			

## W A L E S.

ANGLESEY	—	2
BRECKNOCKSHIRE	—	2
CARDIGANSHIRE	—	2
CARMARTHENSHIRE	—	2

CAR-



CARNARVONSHIRE	—	2	MERIONETHSHIRE	—	1
DENBIGHSHIRE	—	2	MONTGOMERYSHIRE		2
FLINTSHIRE	—	2	PEMBROKESHIRE	—	2
GLAMORGANSHIRE	—	2	Haverford-West	—	1
Cardiffe	—	1	RADNORSHIRE	—	2

The distribution of the persons to be chosen for Scotland and Ireland, and the several counties, cities, and places therein, shall be according to such proportions and number as shall be agreed upon and declared by the lord protector and the major part of the council, before the sending forth writs of summons for the next parliament.

XI. That the summons to parliament shall be by writ under the great seal of England, directed to the sheriffs of the several and respective counties, with such alteration as may suit with the present government, to be made by the lord protector and his council, which the chancellor, keeper, or commissioners of the great seal, shall seal, issue, and send abroad by warrant from the lord protector. If the lord protector shall not give warrant for issuing of writs of summons for the next parliament, before the first of June, 1654, or for the triennial parliaments, before the first day of August in every third year, to be accounted as aforesaid; that then the chancellor, keeper, or commissioners of the great seal for the time being, shall, without any warrant or direction, within seven days after the first day of June, 1654, seal, issue, and send abroad writs of summons (changing therein what is to be changed as aforesaid) to the several and respective sheriffs of England, Scotland, and Ireland, for summoning the parliament to meet at Westminster, the third day of September next; and shall likewise, within seven days after the said first day of August, in every third year, to be accounted from the dissolution of the precedent parliament, seal, issue, and send abroad several writs of summons (changing therein what is to be changed) as aforesaid, for summoning the parliament to meet at Westminster the sixth of November, in that third year. That the said several and respective sheriffs shall, within ten days after the receipt of such writ as aforesaid, cause the same to be proclaimed and published in every market-town within his county, upon the market days thereof, between twelve and three of the clock; and shall then also publish and declare the certain day of the week and month, for choosing members to serve in parliament for the body of the said county, according to the tenor of the said writ, which shall be upon Wednesday five weeks after the

date of the writ; and shall likewise declare the place where the election shall be made: For which purpose he shall appoint the most convenient place for the whole county to meet in; and shall send precepts for elections to be made in all and every city, town, borough, or place within his county, where elections are to be made by virtue of these presents, to the mayor, sheriff, or other head-officer of such city, town, borough, or place, within three days after the receipt of such writ and writs; which the said mayors, sheriffs, and officers respectively are to make publication of, and of the certain day for such elections to be made in the said city, town or place aforesaid, and to cause elections to be made accordingly.

XII. That at the day and place of elections, the sheriff of each county, and the said mayors, sheriffs, bailiffs, and other head officers within their cities, towns, boroughs, and places respectively, shall take view of the said elections, and shall make return into the chancery within twenty days after the said elections, of the persons elected by the greatest number of electors, under their hands and seals, between him on the one part, and the electors on the other part; wherein shall be contained, That the persons elected shall not have power to alter the government as it is hereby settled in one single person and a parliament.

XIII. That the sheriff, who shall wittingly and willingly make any false return, or neglect his duty, shall incur the penalty of 2000 marks of lawful English money; the one moiety to the lord protector, and the other moiety to such person as will sue for the same.

XIV. That all and every person and persons, who have aided, advised, assisted, or abetted in any war against the parliament, since the first day of January, 1641, (unless they have been since in the service of the parliament, and given signal testimony of their good affection thereunto) shall be disabled and incapable to be elected, or to give any vote in the election of any members to serve in the next parliament, or in the three succeeding triennial parliaments.

XV. That all such, who have advised, assisted, or abetted the rebellion of Ireland, shall be disabled and incapable for ever to be elected, or give any vote in the election of any member to serve in parliament; as also all such who do or shall profess the Roman Catholick religion.

XVI. That all votes and elections given or made contrary, or not according to, these qualifications, shall be null and void: And if any person, who is hereby made incapable, shall



shall give his vote for election of Members to serve in parliament, such person shall lose and forfeit one full year's value of his real estate, and one full third part of his personal estate; one moiety thereof to the lord protector, and the other moiety to him or them who shall sue for the same.

XVII. That the persons who shall be elected to serve in parliament, shall be such (and no other than such) as are persons of known integrity, fearing God, and of good conversation, and being of the age of twenty-one years.

XVIII. That all and every person and persons seized or possessed to his own use, of any real estate or personal, to the value of 200*l.* and not within the aforesaid exceptions, shall be capable to elect members to serve in parliament for counties.

XIX. That the chancellor, keeper, or commissioners of the great seal, shall be sworn before they enter into their offices, truly and faithfully to issue forth and send abroad, writs of summons to parliament, at the times and in the manner before expressed: And in case of neglect or failure to issue and send abroad writs accordingly, he or they shall for every such offence, be guilty of high-treason, and shall suffer the pains and penalties thereof.

XX. That in case writs be not issued out, as is before expressed, but that there be a neglect therein, fifteen days after the time wherein the same ought to be issued out by the chancellor, keeper, or commissioners of the great seal; that then the parliament shall, as often as such failure shall happen, assemble and be held at Westminster, in the usual place, at the times prefixed, in manner and by the means hereafter expressed; that is to say, That the sheriffs of the several and respective counties, sheriffdoms, cities, boroughs, and places aforesaid, within England, Wales, Scotland, and Ireland, the chancellor, masters, and scholars of the universities of Oxford and Cambridge, and the mayor and bailiffs of the borough of Berwick upon Tweed, and other the places aforesaid respectively, shall at the several courts and places to be appointed as aforesaid, within thirty days after the said fifteen days, cause such members to be chosen for their said several and respective counties, sheriffdoms, universities, cities, boroughs, and places aforesaid, by such persons, and in such manner, as if several and respective writs of summons to parliament under the great seal had issued and been awarded according to the tenor aforesaid: That if the sheriff, or other persons authorized, shall neglect his or their duty herein, that all and every such sheriff and person authorized

as aforesaid, so neglecting his or their duty, shall, for every such offence, be guilty of high-treason, and shall suffer the pains and penalties thereof.

XXI. That the clerk, called the clerk of the commonwealth in chancery for the time being, and all others, who shall afterwards execute that office, to whom the returns shall be made, shall for the next parliament, and the two succeeding triennial parliaments, the next day after such return, certify the names of the several persons so returned, and of the places for which he and they were chosen respectively, unto the council; who shall peruse the said returns, and examine whether the persons so elected and returned be such as is agreeable to the qualifications, and not disabled to be elected: And that every person and persons being so duly elected, and being approved of by the major part of the council, to be persons not disabled, but qualified as aforesaid, shall be esteemed a member of parliament, and be admitted to sit in parliament, and not otherwise.

XXII. That the persons so chosen and assembled in manner aforesaid, or any sixty of them, shall be, and be deemed the parliament of England, Scotland, and Ireland; and the supreme legislative power to be and reside in the lord protector and such parliament, in manner herein expressed.

XXIII. That the lord protector, with the advice of the major part of the council, shall at any other time than is before expressed, when the necessities of the state shall require it, summon parliaments in manner before expressed, which shall not be adjourned, prorogued, or dissolved without their own consent, during the first three months of their sitting. And in case of future war with any foreign state, a parliament shall be forthwith summoned for their advice concerning the same.

XXIV. That all bills agreed unto by the parliament, shall be presented to the lord protector for his consent; and in case he shall not give his consent thereto, within twenty days after they shall be presented to him, or give satisfaction to the parliament within the time limited; that then, upon declaration of the parliament that the lord protector hath not consented nor given satisfaction, such bills shall pass into, and become laws, although he shall not give his consent thereunto; provided such bills contain nothing in them contrary to the matters contained in these presents.

XXV. That Henry Lawrence, Esq; &c. [whose names are before-mentioned at p. 247.] or any seven of them, shall be a council for the purposes expressed in this writing;  
and



and upon the death or other removal of any of them, the parliament shall nominate six persons of ability, integrity, and fearing God, for every one that is dead or removed; out of which the major part of the council shall elect two, and present them to the lord protector, of which he shall elect one: And in case the parliament shall not nominate within twenty days after notice given unto them thereof, the major part of the council shall nominate three as aforesaid to the lord protector, who out of them shall supply the vacancy: And until this choice be made, the remaining part of the council shall execute as fully in all things, as if their number were full. And in case of corruption, or other miscarriage in any of the council in their trust, the parliament shall appoint seven of their number, and the council six, who, together with the lord chancellor, lord keeper, or commissioners of the great seal for the time being, shall have power to hear and determine such corruption and miscarriage, and to award and inflict punishment, as the nature of the offence shall deserve; which punishment shall not be pardoned or remitted by the lord protector: And, in the interval of parliaments, the major part of the council, with the consent of the lord protector, may, for corruption, or other miscarriage as aforesaid, suspend any of their number from the exercise of their trust, if they shall find it just, until the matter shall be heard and examined as aforesaid.

XXVI. That the lord protector, and the major part of the council aforesaid, may, at any time before the meeting of the next parliament, add to the council such persons as they shall think fit; provided the number of the council be not made thereby to exceed twenty-one, and the quorum to be proportioned accordingly by the lord protector and the major part of the council.

XXVII. That a constant yearly revenue shall be raised, settled, and established for maintaining of 10,000 horse and dragoons, and 20,000 foot, in England, Scotland, and Ireland, for the defence and security thereof, and also for a convenient number of ships for guarding of the seas, besides 200,000*l.* per ann. for defraying the other necessary charges of administration of justice, and other expences of the government; which revenue shall be raised by the customs, and such other ways and means as shall be agreed upon by the lord protector and his council, and shall not be taken away or diminished, nor the way agreed upon for raising the same altered, but by the consent of the lord protector, and the parliament.

XXVIII. That the said yearly revenue shall be paid into the public treasury, and shall be issued out for the uses aforesaid.

XXXIX. That in case there shall not be cause hereafter to keep up so great a defence both at land or sea, but that there be an abatement made thereof, the money which will be saved thereby, shall remain in bank for the public service, and not be employed to any other use but by consent of parliament, by the lord protector, and major part of the council.

XXX. That the raising of money for defraying the charge of the present extraordinary forces, both at sea and land, in respect to the present wars, shall be by consent of parliament, and not otherwise: Save only that the lord protector, with the consent of the major part of the council, for preventing the disorders and dangers which might otherwise fall out both by sea or land, shall have power, until the meeting of the first parliament, to raise money for the purposes aforesaid; and also to make laws and ordinances for the peace and welfare of these nations, where it shall be necessary; which shall be binding and in force, until order shall be taken in parliament concerning the same.

XXXI. That the lands, tenements, rents, royalties, jurisdictions and hereditaments, which remain yet unfold, or undisposed of, by act or ordinance of parliament, belonging to the commonwealth, (except the forests and chases, and the honours and manors belonging to the same; the lands of the rebels in Ireland, lying in the four counties of Dublin, Cork, Kildare, and Catherlaugh, in the late wars; and also the lands of Papists and delinquents in England, who have not yet compounded) shall be vested in the lord protector, to hold, to him and his successor, lords protectors of these nations; and shall not be alienated but by consent in parliament. And all debts, fines, issues, amerciaments, penalties and profits, certain and casual, due to the keepers of the liberties of England by authority of parliament, shall be due to the lord protector, and be payable into his public receipt, and shall be recovered and prosecuted in his name.

XXXII. That the office of lord protector over these nations shall be elective and not hereditary; and upon the death of the lord protector, another fit person shall be forthwith elected to succeed him in the government; which election shall be by the council, who, immediately upon the death of the lord protector, shall assemble in the chamber where they usually sit in council; and, having given notice to all their

mem-



members of the cause of their assembling, shall, being thirteen at least present, proceed to the election; and, before they depart the said chamber, shall elect a fit person to succeed in the government, and forthwith cause proclamation thereof to be made in all the three nations as shall be requisite: And the person that they, or the major part of them, shall elect as aforesaid, shall be, and shall be taken to be, lord protector over these nations of England, Scotland, and Ireland, and the dominions thereto belonging. Provided that none of the children of the late king, nor any of his line or family, be elected to be lord protector or chief magistrate over these nations, or any the dominions thereto belonging. And until the aforesaid election be past, the council shall take care of the government, and administer in all things as fully as the lord protector, or the lord protector and council are enabled to do.

XXXIII. That Oliver Cromwell, captain-general of the forces of England, Scotland, and Ireland, shall be, and is hereby declared to be, lord protector of the commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging, for his life.

XXXIV. That the chancellor, keeper, or commissioners of the great seal, the treasurer, admiral, chief governors of Ireland and Scotland, and the chief-justices of both the benches, shall be chosen by the approbation of parliament; and, in the intervals of parliament, by the approbation of the major part of the council, to be afterwards approved by the parliament.

XXXV. That the Christian religion, as contained in the Scriptures, be held forth and recommended as the public profession of these nations; and that, as soon as may be, a provision, less subject to scruple and contention, and more certain than the present, be made for the encouragement and maintenance of able and painful teachers, for instructing the people, and for discovery and confutation of error, heresy, and whatever is contrary to sound doctrine: And that until such provision be made, the present maintenance shall not be taken away nor impeached.

XXXVI. That to the public profession held forth none shall be compelled by penalties or otherwise; but that endeavours be used to win them by sound doctrine, and the example of a good conversation.

XXXVII. That such as profess faith in God by Jesus Christ, (though differing in judgment from the doctrine, worship, or discipline publicly held forth) shall not be re-

strained from, but shall be protected in, the profession of the faith, and exercise of their religion; so as they abuse not this liberty to the civil injury of others, and to the actual disturbance of the public peace on their parts: Provided this liberty be not extended to Popery nor Prelacy, nor to such as, under the profession of Christ, hold forth and practise licentiousness.

XXXVIII. That all laws, statutes, and ordinances, and clauses in any law, statute, or ordinance to the contrary of the aforesaid liberty, shall be esteemed as null and void.

XXXIX. That the acts and ordinances of parliament, made for the sale or other disposition of the lands, rents, and hereditaments of the late king, queen, and prince, of archbishops and bishops, &c. deans and chapters, the lands of delinquents, and forest lands, or any of them, or of any other lands, tenements, rents, and hereditaments belonging to the commonwealth, shall nowise be impeached or made invalid, but shall remain good and firm; and that the securities given by act and ordinance of parliament for any sum or sums of money, by any of the said lands, the excise, or by any other public revenue; and also the securities given by the public faith of the nation, and the engagement of the public faith for satisfaction of debts and damages, shall remain firm and good, and not be made void and invalid upon any pretence whatsoever.

XL. That the articles given to, or made with, the enemy, and afterwards confirmed by parliament, shall be performed and made good to the persons concerned therein: And that such appeals as were depending in the last parliament, for relief concerning bills of sale of delinquents estates, may be heard and determined the next parliament, any thing in this writing, or otherwise, to the contrary notwithstanding.

XLI. That every successive lord protector over these nations, shall take and subscribe a solemn oath, in the presence of the council, and such others as they shall call to them, that he will seek the peace, quiet, and welfare of these nations, cause law and justice to be equally administered; and that he will not violate or infringe the matters and things contained in this writing; and, in all other things, will, to his power, and to the best of his understanding, govern these nations, according to the laws, statutes, and customs thereof.

XLII.



XLII. That each person of the council shall, before they enter upon their trust, take and subscribe on oath, that they will be true and faithful in their trust, according to the best of their knowledge; and that in the election of every successive lord protector, they shall proceed therein impartially, and do nothing therein for any promise, fear, favour, or reward.

The oath was in these words:

‘ **W** Hereas the major part of the last parliament (judging that their sitting any longer, as then constituted, would not be for the good of the commonwealth) did dissolve the same; and, by a writing under their hands, dated the 12th day of this instant December, resigned unto me their powers and authorities; and whereas it was necessary thereupon, that some speedy course should be taken for the settlement of these nations upon such a basis and foundation as, by the blessing of God, might be lasting, secure property, and answer those great ends of religion and liberty, so long contended for: And, upon full and mature consideration had of the form of government hereunto annexed, being satisfied that the same, through the divine assistance, may answer the ends aforementioned; and having also been desired, and advised, as well by several persons of interest and fidelity in this commonwealth, as the officers of the army, to take upon me the protection and government of these nations in the manner expressed in the said form of government, I have accepted thereof, and do hereby declare my acceptance accordingly; and I do promise, in the presence of God, that I will not violate or infringe the matters and things contained therein; but, to my power, observe the same, and cause them to be observed; and shall, in all other things, to the best of my understanding, govern these nations according to the laws, statutes, and customs thereof; seeking their peace, and causing justice and law to be equally administered.’

O. CROMWELL.

To this oath was subjoined the following memorandum:

‘ Oliver Cromwell, captain-general of all the forces of this commonwealth, and now declared lord protector thereof, did, this 16th day of December, 1653, sign this writing,

‘ writing, and solemnly promise, as is therein contained, in  
 ‘ presence of the lords commissioners of the great seal of Eng-  
 ‘ land, who administered the same oath, and of the lord  
 ‘ mayor and aldermen of the city of London, divers of the  
 ‘ judges of the land, the officers of state and army, and  
 ‘ many other persons of quality.

It is observable that when Cromwell’s first parliament was summoned upon this new model, instead of 30, there were (as appears by the list) but 21 members chosen for Scotland. Of the other nine, only five are accounted for by Whitlock, who says, that five sheriffdoms returned, ‘ that not one fit to be a parliament-man was to be found within their liberties.

All the thirty were returned for Ireland.

Great alterations were made in this plan by Cromwell’s second parliament, in an instrument which was passed under the title of THE HUMBLE PETITION AND ADVICE, which the reader may see in Whitlock’s Memorials.

The Treaties of Commerce down to the Year 1740, with preliminary Discourses and Remarks, by M<sup>r</sup>. Kestel, and others.



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THE  
PUBLIC LAW  
OF  
EUROPE:  
OR,

An Historical Abridgment of the  
Treaties on which are founded the  
Rights and Pretensions of the several  
Princes and States in *Europe*.

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PART I.

From the Treaty of *Munster* in 1648, to the  
Peace of *Ryswick*, 1697.

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CHAP. I.

The TREATIES of WESTPHALIA (a) and the Py-  
RENNEES (b).

**W**HEN the doctrines of Luther had prevailed in  
Germany, it was easy to foresee that the intolerant  
zeal of the Catholics, and their cruel usage of the  
Protestants, would disturb the peace of the empire. The  
Protestants, tired with making fruitless complaints, as soon  
as

(a) In the treaty of Westpha-  
lia, the Protestant plenipoten-  
tiaries assembled at Osnabrug,  
and the Catholic at Munster,  
(both which places are in West-

phalia) and therefore it is com-  
monly called, The treaty of  
Munster and Osnabrug.

(b) The Pyrenean treaty is  
joined with those of Munster and  
Of.

as they could form an army, entered into a confederacy, called, from the place of congress, the League of Smalcald; but their arms were not crowned with success (c). The battle of Mulberg, (in 1547) and the captivity of John Frederic, elector of Saxony, and of the landgrave of Hesse-Cassel, would have entirely demolished the Protestants, if the bravery of prince Maurice of Saxony (cousin to the elector) had not revived their hopes, and France raised up enemies to the house of Austria, whose ruin she sought. The calamities that were felt, and the dread of those that were approaching, made both parties relax. The PUBLIC PEACE, or treaty of Passau, was signed the 2d of August 1552, and, three years after, the PEACE of RELIGION was concluded at Augsburg. By these treaties the Lutheran religion, and liberty of conscience, were established in Germany. The Catholics believed they had lost too much, and the Protestants imagined they had not gained enough, or at least did not think their rights sufficiently established. Suspicions bred animosities, and in this state of things, it was hardly possible that the conventions of Passau and Augsburg should be regarded, especially as the house of Austria, Catholic both by policy and principle, blew up the coals of the civil dissensions. Charles V. formed the ambitious project of enslaving the em-

Osnabrug, as it may be deemed part thereof. The kings of France and Spain were as yet too much incensed against each other to submit the decision of their quarrel to the Westphalian negotiations, and therefore continued the war twelve years longer. The king of France excluded the duke of Lorraine from the treaty of Munster, as the king of Spain did Portugal, which last was deserted by France at the treaty of the Pyrennees, contrary to the most solemn promises, and the duke of Lorraine was admitted upon hard terms, as will be seen in the articles relating to his dominions. This treaty likewise discovers the future designs of France, and the end that court

has invariably pursued to this day.

(c) Smalcald is a city of Franconia, in the county of Hennenberg, under the landgrave of Hesse-Cassel. The emperor Charles V, resolving to extinguish the Lutherans, assembled a diet at Spire, and, by a decree, dated the 13th of October, 1529, directed that they should be proceeded against. Whereupon the Lutheran princes protested in favour of their religion, and so gained the name of Protestants, and their religion was styled the Protestant Faith. The next year they assembled at Smalcald, and entered into a defensive league, which was concluded in 1530, and renewed in 1535 for ten years.



pire, and to that end endeavoured to weaken the princes of the Germanic body (whose forces were formidable to him) by arming them one against another. His successors, after his example, always considered the troubles of Germany as favourable to their views, but, less able to practise the same policy, they did not draw from thence the same advantages.

Ferdinand II. saw Bohemia in arms against him, and the Protestants of the empire, by supporting the revolt of that kingdom, put the Catholics upon taking up arms in defence of the emperor. Ferdinand, aided by the most considerable forces of the Germanic body, utterly demolished the party of Frederic V, elector Palatine, whom the Bohemians had placed on their throne. The triumph of religion was not the principal, or at least the sole object of Ferdinand, and in his prosperity he did not forget the interests of his crown. He artfully availed himself of the indiscreet zeal of the Catholics, who thought all things lawful either to destroy the Protestants or to retain their spoils, and by means of the animosities which divided the empire, he began to exercise an arbitrary power.

Germany was ready to sink, and the loss of her liberty would have made it easy for the house of Austria to accomplish their projects; when Gustavus Adolphus, who had lately concluded a six years truce with Poland, perceived at once how much it behoved him to gain an establishment in the empire, in order to be more respected in Europe, and how favourable to him the present circumstances were. This prince, born with the qualities, seldom united, of a great king and a hero, had an army worthy of him. Cardinal Richlieu, who looked upon him as a fit instrument to humble the house of Austria, promised him subsidies, and enflamed his hopes by flattering his ambition (d). The Protestant princes of Germany at the same time addressed to him their complaints: The yoke they were under, began to be too heavy to be thrown off without a foreign aid, and in their invitation they promised to join their forces with his. Gustavus therefore entered the territories of the empire, declaring himself the protector of Germany, and the avenger of

(d) Cardinal Richlieu, by his pensioners in the court of Sweden, gave Gustavus Adolphus the first hint of taking advantage of the troubles of Germany, to enter there on pretence of reli-

gion. But Gustavus would not come into the views of France, and attack the house of Austria alone, which France wanted to humble,

its laws. He landed the 24th of June, 1630, in the isle of Rugen, where he began the first hostilities, and five days after he passed into the island of Usedom.

This war is one of the most famous in Europe, more particularly for the number of illustrious generals, Gustavus, Weimart, Horn, Bannier, Tortenfon, Maximilian of Bavaria, Tilly, Walstein, Piccolomini, Merci, Guebriant, Condé, Turenne, &c. But what made it still more memorable; was, that almost all Europe took part in it; that it set bounds, at least for a time, to the power of the Austrian princes; and that the peace which ended it, altered the interests of all Christendom, and has served for foundation to all the subsequent treaties (e).

Cardinal Richlieu perhaps would have prevented a general war, if, instead of only paying subsidies to Sweden, he had declared war against Ferdinand, when Gustavus was spreading terror in the heart of Germany; or at least if he had not deferred it, till the battle of Norlingen had ruined the affairs of the Swedes (f). By this conduct, he would have prescribed terms to the Spanish court, and the emperor been obliged to receive law from the conqueror: Whereas Ferdinand, from the brink of ruin, having recovered a sort of superiority, it was become more difficult to force him to sue for peace, and renounce the vast projects of his house.

The war continued with vigour, and for several years the contending powers were too much incensed against each other to perceive how dearly they purchased the glory of conquering, or of shewing their fortitude in adversity. It was in some measure against their wills that they signed at Ham-burgh, the 25th of December, 1641, the preliminary articles of the peace. The conferences were to begin the 25th of March of the next year, but were put off to the 10th of July, 1643, and the peace, after five years negotiation, was not concluded till 1648.

The Catholics held their assemblies at Munster, and the Protestants at Osnabrug. Matters at first were treated with great slowness. The plenipotentiaries sounded one another; and each feared that his adversary would take advantage of

(e) It may be added, that by the cessions to France of three bishoprics and Alsatia, it began to destroy the balance of power in Europe.

(f) Norlingen is an imperial

city in Swabia, famous for nothing but the defeat of the Swedes in 1644, and the victory of the Swedes and French over the Bavarians in 1645.



his advances, and even of his readiness to listen to the first propositions. Hence those numberless difficulties objected to the plainest overtures. However, the length of the Westphalian treaty must not be ascribed to that cause alone. There was an immense chaos of opposite interests to be adjusted; whole provinces were to be torn from the house of Austria; the laws and liberty of the oppressed empire were to be restored; and the Protestants to be enriched with the spoils of the Catholic ecclesiastics, in order to establish a sort of an equilibrium between them.

As long as the war left the court of Vienna the least prospect of success, the necessary conditions for confirming the public tranquillity, seemed impracticable. Nay, the peace itself was no longer the prime object of the negotiators. The imperial ministers fought only to disunite France, Sweden, and the Germanic body. Spain, after their example, used all her endeavours to draw off the United Provinces from the alliance of France. Nothing was forgot of what the most refined politics could suggest, to breed suspicions and fears. In short, a general peace could not be expected. It is true, France and Sweden adhered faithfully to their engagements. Each of these powers perceived that the advantage of a separate peace would be but transitory. What further contributed to their union, was, that the princes of the Catholic league, sensible of the emperor's weakness, were withdrawing themselves from him by degrees, in order to put themselves under the securer protection of his enemies. But the United Provinces, pursuant to their interest, took a contrary course; they detached themselves from France, and signed a separate peace with Spain the 30th of January, 1648. From thenceforward Spain thought herself so sure of humbling France, that she would not consent to the cessions required of her.

The conduct of the United Provinces was complained of on all sides; but their gratitude to France, on which the French ministers too far relied, was not able to counterbalance their interests: The Spaniards granted all their demands; they had nothing to hope from the continuation of the war, and, after all, an unlucky turn might deprive them of the advantage they had gained. Besides, France was now become formidable to the States-general. They dreaded her successes and neighbourhood, and began to perceive that Spain was no longer that power which had made all around her tremble under the reigns of Charles V, and his son.

The

The peace of the empire with France and Sweden was signed the 28th of October, 1648, and in consequence of the convention of Nuremberg, the 30th of July, 1650, Octavius Piccolomini, and Charles Gustavus, prince Palatine, generals of the imperial armies, were charged with seeing all the articles punctually executed.

T. M. III. It was to be feared that the war, which was going to continue with greater warmth than ever, between France and Spain, would destroy the fruits of a five-years negotiation, and kindle a second flame over all Europe: To prevent this misfortune, the French plenipotentiaries required that the emperor and empire should not interfere in the war with the king of Spain, though that prince, by virtue of the circle of Burgundy, was a member of the Germanic body, nor take up arms to adjust the disputes concerning Lorrain. France omitted nothing to secure the execution of these important articles: She procured by treaties of league and alliance (which were often renewed after the peace of the Pyrennees) the guaranty of the most powerful princes of the empire.

IV.

The intestine divisions which began in 1648 to disturb the minority of Lewis XIV, did not hinder the French from keeping the ascendant they had gained over the Spaniards after the battle of Rocroy. If the court of Madrid saw their hopes vanish, which had made them so haughty at Munster, France was no less weary of her triumphs (g). A suspension of arms was agreed upon, and signed at Paris the 7th of May, 1659. Cardinal Mazarine's haste to put an end to hostilities on bare preliminaries, did not escape censure. Since the beginning of the war, the successes of France had not yet been so great, and it was thought the conclusion of the peace would render them fruitless. Some, ignorant doubtless of the danger in driving an enemy to despair, were for crushing the Spaniards; others, more wise, wished only that the peace had been treated sword in hand, to render the negotiations more easy and short. But the situation of affairs, and disposition of the parties, did not require the same conduct as was used during the congress of Westphalia. Cardinal Mazarine and Don Lewis de Haro came to the frontiers of the two kingdoms, and, after twenty-four conferences, the peace

(g) One inducement to Spain treaty with the French against to make peace with France, the Spaniards, having had an was, that Cromwell, after ha- eye for some time on some con- quest in America. v- ing been courted by both quest in America. crowns, thought fit to make a



was concluded the 7th of November, 1659, in the isle of Pheasants in the river Bidassoa.

Mazarine has left in his letters a curious and circumstantial account of this negotiation. Don Lewis de Haro had but little knowledge of the affairs of Europe, naturally weak, timorous, and irresolute; he had no fixed and certain principle to guide him in his proceedings. Mazarine, on the contrary, had all the qualifications that can be desired in a negotiator. With a thorough insight into the affairs of Europe, he was perfectly acquainted with every thing relating to the respective interests of his master and the king of Spain. These talents were needful in the Pyrennean conferences: He had scarce other difficulties to surmount but Don Lewis's irresolution and vanity, both which he easily managed. Indeed, he could not prevail to have Portugal included in the treaty, nor Condé to be left out; but, for these compliances, ample amends were made by other concessions.

## F R A N C E.

‘ The emperor and empire resign to the king of France to T. M. 70,  
 ‘ be incorporated in his crown for ever, all their rights upon  
 ‘ the cities and bishoprics of Metz, Toul, and Verdun, and  
 ‘ their dependencies, particularly Moyenvic, saving the right  
 ‘ of metropolitan, which belongs to the archbishop of  
 ‘ Treves.

‘ The emperor for himself and the house of Austria and T. M. 73;  
 ‘ the empire, resign to France the city of Brisac, and the &c.  
 ‘ villages of Hoolstat, Niederrimsing, Harten, and Acharren,  
 ‘ which depend thereon, to be held in full sovereignty, in  
 ‘ the same manner as the Upper and Lower Alsatia, Suntgau,  
 ‘ and the provincial prefecture of the ten imperial cities,  
 ‘ namely, Haguenau, Calmer, Scletstادت, Weisemberg,  
 ‘ Landau, Oberenheim, Rosheim, Munster in the vale of  
 ‘ St. Gregory, Keyserberg, and Turingham, with their de-  
 ‘ pendencies. All and every of these shall be incorporated  
 ‘ for ever in the crown of France. But the most Christian  
 ‘ king shall be obliged in all those places to maintain the  
 ‘ Catholic religion, and to banish thence all innovation  
 ‘ brought in during the war. The emperor, empire, and  
 ‘ archduke of Inspruck, Ferdinand Charles, do discharge the  
 ‘ subjects of those places from all engagements and oaths of  
 ‘ fidelity; and derogate and make void all decrees, constitu-  
 ‘ tions, and particularly the article of the imperial capitulation,  
 Vol. XII. X by

by which the alienation of the rights and possessions of the empire is prohibited (a). In the next diet these alienations shall be ratified anew, and if any proposal be made hereafter in a diet, for the recovery of lands or rights of the empire, the present alienations shall not be included therein.

T. M. 81,  
82.

All the fortifications of Bensfeld, Rhinau, Saverne, Hohenbar, and Neuburg on the Rhine, shall be demolished, and no garrison kept there. Saverne shall keep an exact neutrality, and give the king's troops a free passage as often as required.

It may be observed that, by the expressions used in this article, the empire meant only to soothe the magistrates and inhabitants of Saverne, in the cession of their city to France.

T. M. 76,  
77.

The kings of France shall have a perpetual right to garrison Philippsburg, and shall have free passage for his troops thither through the empire. But the said king shall only have the protection of the place; the property, profits, &c. remaining to the bishop and chapter of Spire.

T. M. 72.

The emperor and empire resign to France all the rights of sovereignty that do or may belong to them over Pignerol.

T. Pyr. 35.  
41.  
36, 41.

France shall remain possessed of all Artois, except only the towns, bailiwicks, and chasteellanies of Ayre and St. Omer, with their dependencies: In Flanders, of Graveling, the forts Philip, Sluice, Hannain-Bourburg, and St. Vi-

(a) As the emperors had endeavoured to incroach upon the rights and privileges of the electors, it was resolved, upon the death of Maximilian, that before his grandson Charles V. was admitted to the imperial dignity, certain articles of government, styled 'The Imperial constitution,' should be drawn up and sworn to. This method has ever since been constantly followed. When the emperor is chosen, the electors lead him to the church, and place him upon the great altar, where the archbishop of Mentz gives him the capitulation to sign, with a promise to confirm, immediately after his coronation, all the liberties and privileges which the electors, and

other princes and states of the empire, before enjoy. Some of the principal articles of these capitulations are, the observance of the golden-bull; of the agreement at Ausburg in 1555; of the treaties of Munster and Osnabrug; and of several other articles, making in all 47, which run upon changing nothing in matters of religion; and hinder him from abolishing laws, declaring war, imposing taxes, making peace or alliances, building fortresses, or doing any thing that relates to the good of the empire, without the consent of the states of the empire, and advice of the electors and other princes thereof. These capitulations are like our 'Petition of Right, and Coronation-Oaths.'

'nant



- nant in the county of Hainault, of Landrecy, Queinoy :
- In the duchy of Lunenburg, of Thionville, Montmedy, 37, 38,
- Damvilliers, Ivoy, Chavancy, Chateau, and Marville,
- with all their appurtenances.
- La Bassée and Berg St. Vincox, and the royal fort of T. Pyr. 39.
- Berg, which his most Christian majesty has declared he 40, 41, 53.
- will never consent to part with, shall be exchanged for
- Marienburg and Philipville, and their dependencies : Aven-
- nes, with its appurtenances, shall be given to France, and
- the prince of Chimay shall be indemnified for his preten-
- sions by his Catholic majesty, who also engages to
- build no new fortress that may cut off or disturb the com-
- munication of these places with France.
- The king of France shall remain possessed of all the coun- T. Pyr. 42.
- tries on this side the Pyrennees, and the king of Spain of
- those on the other side of the mountains, which shall divide
- the two kingdoms.
- Spain renounces all right and pretensions to whatever was 61.
- yielded to France by the treaty of Munster, and to the
- county of Terrese.

This county was not resigned to France till the 16th of December, 1660, by a treaty concluded at Paris between Lewis XIV. and Ferdinand Charles, archduke of Inspruck, and confirmed the 4th of June, 1663, by Sigismund Francis, archduke of Inspruck.

- The king of France protests against all prescription and T. Ver. 23.
- lapse of time, with regard to the kingdom of Navarre, and
- reserves to himself a power to prosecute his right to the said T. Pyr. 89.
- kingdom by an amicable way, and not by arms, and also
- all his other rights, which he conceives to belong to him or
- his predecessors.

All authors, who have writ of the law of nations, agree, that prescription authorizes rights the most doubtful in their origin; and what proves the wisdom of this maxim, is, that it concerns every nation to adopt it. The difficulty is, to know how prescription is acquired : It seems to be solely established by the silence of the party aggrieved, when he is treating with the prince who possesses his property, or when his adversary sells, resigns, or alienates it in any other manner. Silence in these cases is equivalent to consent. Had authors, who have treated of the rights and pretensions of the powers of Europe, set out upon this maxim, they would not have endeavoured to realize the chimeras which the states themselves, in favour of whom they write, durst not avow. To what purpose to talk now of the pretensions of

the empire on the ecclesiastical state? of the rights of England on the crown of France? or those of France on the provinces enjoyed by Charles the Great? Without inflaming the ambition and jealousy of princes, there will be subjects of quarrels enough, and the public tranquillity too often disturbed. From this maxim of prescription, it must be concluded that each prince rightfully possesses what has not by any act of protestation been claimed since the treaties of Westphalia.

T. Pyr. 3.

‘ If any state or prince whatsoever attacks the king of France, or the king of Spain, in what either now possesses or shall possess by virtue of this treaty, the other shall not any way assist the said state or prince, though otherwise his ally.’

This is a wise and regular article, if the courts of Paris and Madrid meant only to tie up their hands for the future, that is to say, debar themselves of the liberty of making any engagements respectively hurtful to them. But if, as some pretend, cardinal Mazarine and Don Lewis de Haro intended that this clause should have a retrospect to the treaties preceding the Pyrenean, nothing would be more irregular or contrary to the principles of sincerity. For France and Spain would put themselves under a necessity of breaking their present convention, or their former engagements with other powers. There are politicians who applaud this manner of treating, as leaving a state free to take, on occasion, the part most favourable to its interests. But, is it true that so pernicious an advantage may be drawn from thence? A prince who has entered into contrary engagements, is bound to fulfil the prior, because the others are null and ought not to have been made. If the later conventions annul the more ancient, in vain do nations negotiate together. The faith of treaties vanishes, all is uncertain, and the law of nations are words without any meaning. The same inconveniences are also incurred, and all the bands of society are broke, if a prince may renounce his engagements without the consent of the party with whom he has made them.

T. Pyr. 3.

‘ If any breach should happen between the allies of the two kings of France and Spain, neither shall engage in the quarrel till endeavours have been used for an accommodation, which not succeeding, each king shall be free to support his ally, without any breach of this treaty.’

It is lawful without doubt to act in a hostile manner against states who assist our enemies. This principle has in all times been carried into practice, and yet there has prevailed in Europe, since the beginning of this century, a new way of think-



thinking on this subject. It is pretended, in some writings, that it is unlawful to attack a power, who, to perform his engagements, sends aid to our enemies. It has been observed with astonishment, that states, waging war against one another with warmth, have believed, or feigned to believe, that they were still friends, because they were only auxiliaries, and no formal declaration had preceded their hostilities.

It would be easy to discover the cause of such a change in the principles of the law of nations; but it shall only at present be examined, whether it is advantageous to societies to agree that the assistance, they give their allies, shall not alter the friendship and good correspondence which ought to reign among them.

The plenipotentiaries who first devised this clause, had doubtless no other end than to strengthen the peace, and prevent the war between two states from spreading its ravages, and becoming general; but it may be affirmed, that they were mistaken in their views. In the first place, peace is not thereby more firmly established; for it is not declarations but hostilities that create a state of war between two nations. In the next place, so far are the calamities of war from being the less extended by it, that, on the contrary, they are rather increased. A prince who would not venture to concern himself in the quarrels of his neighbours, will take part in the war, when he can do it without making an enemy. The aid he shall give will increase the flame, which otherwise might possibly be more easily extinguished.

It will be to no purpose to agree by treaties, that the allies of the two contending powers shall not be deemed enemies; a prince will always behold with an evil eye, a nation that contributes to his damage, and will seize the first opportunity to be revenged. It is next to impossible for the passions, when put in a fermentation, not to proceed at last to an open rupture.

# S W E D E N.

‘ The emperor and empire resigns to Sweden, as perpetual T. Of. 10;  
‘ and immediate fiefs of the empire, the Higher Pomerania,  
‘ (commonly called Vor-Pomerén) with the island of Rugen,  
‘ and in the Farther Pomerania the towns of Stetin, Garts, Dam,  
‘ Golnau, and the isle of Völlin, with the sovereignty of the  
‘ river Oder, and the arm of the sea called Frischaff; also  
‘ the three mouths of the Peine, the Swine, and the Diewe-

‘nou, with the lands on both sides, from the bounds of the royal territory to the Baltic sea.

‘The elector of Brandenburg shall possess the Farther Pomerania and bishopric of Camin.’

There were some disputes afterwards between the courts of Sweden and Berlin concerning the limits. But all difficulties were removed by the treaty of Stetin, in May 1653. By virtue of that treaty the king of Sweden shared with the elector the revenue of the tolls payable in all the ports and harbours in Farther Pomerania. It would be needless to say any thing more of the treaty of Stetin, the dispositions of it were altered by that of St. Germain-en-Laye and Stockholm, as will be seen hereafter in the peace of Nimeguen.

T. Of. 10.

‘The titles and arms of Pomerania shall be common to the kings of Sweden and electors of Brandenburg. In case of failure of heirs male in the house of Brandenburg, the Farther Pomerania and bishopric of Camin shall devolve to the king of Sweden.

‘With the consent of the empire, the emperor gives to Sweden the town and port of Wismar, with the fort of Walfich, the bailiwicks of Poel, (except some villages belonging to the hospital of the Holy Ghost in Lubeck) of Newencloster, and of Wilshusen; the archbishopric of Bremen, and bishopric of Verden, saving to the city of Bremen its immunities, which shall be left in its present state in ecclesiastical and political matters (b).’

‘Queen Christina and her successors, kings of Sweden, in consideration of these fiefs, shall be deemed princes of the empire, and have their place and vote in the diets as dukes of Bremen, Verden, and Pomerania, princes of Rugen, and lords of Wismar. They shall hold these fiefs of the empire, and receive the investitures, taking the usual oath.

(b) Great alterations have happened since this treaty in the cessions made to the Swedes. For by the treaty of Stockholm in 1720, the queen of Sweden resigned in perpetuity to the house of Brandenburg, the city of Stetin, the district between the Oder and the Pabne, with the isles of Wollin and Usedom, which had been given to Sweden

by the 10th article of the treaty of Osnabrug. By the 3d and 19th articles of the said treaty of Stockholm, Sweden also yields up the towns of Dam and Holnau. By an explanation of another treaty concluded at Stockholm the 20th of November, 1710, Sweden resigns to the elector of Hanover the duchies of Bremen and Verden.

The



\* The crown of Sweden shall enjoy the privilege of not appealing, provided there be established in these fiefs, in some commodious place in Germany, a tribunal where justice may be administered according to the laws and constitutions of the empire.

The electors only have in their dominions tribunals of justice to judge without appeal. The subjects of the other princes appeal from the sentence of their judges to the imperial chamber at Wetzler, or to the Aulic Council of the empire (c). The electors of Treves in their territories permit

(c) For the better and more impartial administration of justice, which had been greatly interrupted, the emperor Maximilian, at the solicitation of the states, erected a court under the title of 'The Imperial Chamber,' at Worms in 1495. This court was removed to Spire, 1533, and, after the French had barbarously ruined the Palatinate, to Wetzler in 1696, where it still remains. The members of this great court of justice were a judge of the chamber, 4 presidents, and 50 assessors; but in 1719 this number was lessened by one half, and these to be part Protestants and part Papists.

The emperors had been averse to such a tribunal, because they still hoped to bring, as in old times, all causes in the last resort before a tribunal of their own appointing, whereas the emperor names only the judge and presidents of the imperial chamber. What former emperors had in vain endeavoured by authority, Maximilian obtained by policy. He foresaw, the large expence of the imperial chamber, which fell entirely on the states, would make them unattentive to their new tribu-

nal, which accordingly happened. They knew the importance of it, struggled to obtain it, but neglected its support, by which means it was often shut up.

The politic emperor took advantage of this, and revived his Aulic Council; and, to shew his moderation, desired the states to add to the number of assessors eight, though the salaries of all are paid by the emperor. By this means he drew all the causes to his own tribunal, by keeping it ever open. The princes and states saw their error, but could not correct it. For, after all their disputes, these two supreme courts subsist, and almost with equal authority, for which first possesses a cause, thereby retains it; and both receive appeals from inferior jurisdictions, and decide dubious titles. The sentences of both, in case of injustice, may be complained of to the general diet. The Aulic Council consists of a president, and seventeen assessors, of whom six are Protestants. The vice-chancellor of the empire has also a right to a seat, and all the decrees pass through his hands, and are directed by him to those who are

appeals to the imperial chamber; it is not clear, however, whether by the golden bull, a subject of that archbishop can be compelled to appear before a foreign judge, the privilege of not appealing being granted not solely to the electors, but also to their subjects.

‘ All the states of the empire shall contribute towards paying to Sweden, in three payments, the sum of five millions of rix-dollars.

### THE CATHOLICS, THE PROTESTANTS, THE REFORMED.

T. Of. 5. ‘ For the redress of the religious grievances which have partly occasioned the war, it is agreed, that the transaction of Passau in 1552, and the peace of religion which ensued in 1555, shall be inviolably observed as it was confirmed at Augsburg in 1556, and shall serve for foundation to the 5th article of the treaty of Osnabrug. There shall be an exact equality between the electors, princes, and states of both religions according to the constitutions of the empire, all violence and force between the two parties being for ever prohibited (d).

T. Of. 2. ‘ The cities of Augsburg, Duncelspiel, Biberach, and Ravensburg, shall retain the exercise of religion as on the 1st of January 1624. The magistracies and public offices shall be held by an equal number of Catholics and Protestants. If the number be unequal, each religion shall have alternately an additional magistrate of the same con-

to execute them. There is one circumstance wherein these tribunals differ, the imperial chamber subsists during a vacancy of the throne, when justice is administered in the name of the vicars of the empire; but the aulic council is dissolved by the death of the emperor; and a new one cannot be chosen till an emperor is elected.

The Papists, and especially the Protestants, both complain of the too great authority of this tribunal; but hitherto they have not been able to restrain its power and restore to the imperial cham-

ber its original and legal jurisdiction.

There are aulic-councils or tribunals of justice in the states of the sovereign princes, either with or without appeals to the imperial chamber or aulic-council of the empire.

(d) This article has been so often violated, that it may be said to exist only in idea. The intolerant spirit of the Romish clergy breaks thro’ all obstacles, and the 4th separate article of the treaty of Ryswic has given a mortal blow to liberty of conscience.

session.



‘ fession. As to offices held by a single person, they shall  
 ‘ be filled by turns by Catholics and Protestants. The city  
 ‘ of Aufburg having a council of seven senators, two of  
 ‘ which have the title of president, and the other five of  
 ‘ counsellors, the Catholics shall always have one president  
 ‘ and three counsellors of their religion; but if the Catholics  
 ‘ abuse the plurality of the suffrages to the prejudice of the  
 ‘ Protestants, it shall be lawful for those last to have recourse  
 ‘ to the alternative of a fifth counsellor.

The inhabitants of Oppenheim who profess the Aufburg T. M.  
 ‘ confession, shall be put in possession of their churches and 27.  
 ‘ ecclesiastical estates as they were in the year 1624; and all  
 ‘ other Protestants shall have the free exercise of their re-  
 ‘ ligion.

‘ The nobility who hold immediately of the empire shall T. Or.  
 ‘ enjoy the same rights in matters of religion with the elec- 5.  
 ‘ tors, princes, and states of the Germanic body.

‘ The counts, barons, nobles, towns, monasteries,  
 ‘ commendams, communities, who are subjects of the states  
 ‘ holding immediately of the empire, ecclesiastical or secular,  
 ‘ Catholic or Protestant, shall retain the free exercise of the  
 ‘ religion they professed the 1st of January 1624. Those  
 ‘ who are not of the religion of their sovereign, and who at  
 ‘ that time did not enjoy the public or private exercise of  
 ‘ their religion, shall be free to attend their devotions in  
 ‘ their own houses, and even to be present at the public  
 ‘ service performed in their neighbourhood. They shall  
 ‘ enjoy, moreover, all the civil privileges granted to those of  
 ‘ the established religion.

‘ In case that those who had not on the 1st of January 1624, Ibid.  
 ‘ the public or private exercise of their religion, or who shall  
 ‘ change their religion, have a mind, or are ordered to re-  
 ‘ move, they shall be at liberty to sell or keep their effects,  
 ‘ to have them administered, and to visit them freely with-  
 ‘ out a passport. The first shall have five years allowed to  
 ‘ remove, the others three, reckoning from the day of notice  
 ‘ from their territorial lord.

‘ The ecclesiastical benefices enjoyed by Catholics in Ibid.  
 ‘ 1624, shall remain in their hands for ever, and those pos-  
 ‘ sessed in the same year by Protestants shall remain with  
 ‘ them in like manner. If any ecclesiastic shall for the  
 ‘ future change his religion, he shall forfeit his benefice,  
 ‘ but without restoring the revenues he shall have consu-  
 ‘ med.

‘ In

Ibid.

‘ In the places of the Ausburg profession, where the emperor enjoys the right of First Prayers, he shall always name a Protestant (e). In the same places, the pope shall have no right of annats, pall, confirmation, &c. and whoever shall demand such rights in his name, shall not be supported by the secular arm. Such as are chosen or stand for archbishopricks, bishopricks, or prelacies of the confession of Ausburg, shall receive investiture of the emperor, after having within the year paid homage and taken the usual oaths of fidelity. In the places where both religions are admitted, the pope shall preserve his right with regard to Catholic benefices. The emperor shall not exercise his right of First Prayers in favour of a Catholic but on the benefices of those who are of the Romish religion.

Ibid.

‘ The electors, princes, &c. of the confession of Ausburg, shall possess all the ecclesiastical benefices they enjoyed in 1624, and the Catholics, of what condition soever, shall be restored to what they held in the same year in the states of the Lutheran princes.

‘ If any elector, prince, lord of territory, &c. change his religion, or acquires, by inheritance or otherwise, any state professing a religion different from his, he shall be allowed to have in his court and about his person, ministers of his religion; but so, as to be no expence to his subjects or prejudice to their religion. If any community embrace the doctrine of their prince or lord, and desire leave to have at their cost the same exercise of religion, the prince or lord shall grant them that favour, which it shall not be in the power of his successors to reverse.

Ibid.

‘ In the ordinary assemblies, as well as in the general diets, the number of the deputies of both religions shall be equal. When an affair requires extraordinary commissaries, they shall be taken among the Protestants, if the point in question concerns the Lutherans. If the dispute relates to the Catholics, the commissaries shall be so: If it arises between Catholics and Protestants, there shall be an equal number of commissaries of both religions.

Ibid.

‘ The tribunal of the imperial chamber shall be composed of a Catholic judge, four presidents named by the emperor, of whom two shall be of the Ausburg profession; of twenty

(e) the right of Primæ Preces or first prayers, is the right of filling, for once only, a vacant seat in every chapter of the em-

pire; and it answers to the privilege of our archbishop of Canterbury called an Option.



ty six Catholic assessors and twenty-four Protestants. The judges of the aulic-council shall consist of an equal number of both religions. If all the Catholics shall be of one opinion and all the Protestants of another, the affair to be decided shall be referred to the general diet of the empire.

The dukes of Brieg, Lignitz, Munster, Berg, and d'Oels, and the city of Breslau, shall be maintained in the privileges they enjoyed before the troubles of Bohemia, and in the free exercise of their religion. The Lutheran counts, barons, nobles, &c. in the duchy of Silesia, who depend on the royal chamber, shall be allowed to assist at the public service of their religion in their neighbourhood, and to build three churches at their own cost near the cities of Sweidnitz, Jant, and Glogau.

The same liberty that is granted to Catholics and Lutherans, shall also be allowed to those who call themselves the Reformed. Except these three religions, no other shall be received or tolerated in the empire. T. Of. 7.

This article seems to regard only subjects, since, on account of the fiefs he enjoys in the empire, it was not objected against the duke of Holstein, presumptive heir of the crown of Russia, when he embraced the Greek religion.

## ELECTORS, PRINCES, AND STATES OF THE EMPIRE (f).

For preventing any disputes that may arise for the future in the political state, the electors, princes, and states of the T. M. 64.

(f) After the extinction of the family of Charles the great, who conquered Germany and Lombardy, the empire became elective, and great divisions and dissensions arose, which at last were settled in the reign of Charles IV. by the Golden-Bull, or Magna Charta of Germany.

This edict or law was made in the year 1356, in a diet of the states at Nuremburgh. It is called Golden, because it

has a gold seal in the form of a pope's bull. It contains thirty chapters, concerning the form and ceremonies of the election of the emperors; the number, rights, and functions of the electors, and all that belongs to the government of the empire in general. The electors were thus settled: The archbishop of Mentz, as great chancellor of Germany; the archbishop of Cologne, as great chancellor in Italy; the archbishop of Treves,

the Roman empire, ought to be so confirmed by virtue of this treaty in their ancient rights, prerogatives, privileges in the free encrease of territorial right, in matters ecclesiastical and political in their dominions, in their rights of the regale, that no person may have it in his power or choice to give them molestation on any pretence whatsoever. They shall enjoy the right of suffrage in all deliberations concerning the affairs of the empire; particularly when laws are to be made or interposed; war to be declared; contributions to be imposed; levies of troops to be made, and their quarters regulated; new fortresses to

as great chancellor in Gaul and Arles; the king of Bohemia, as cup-bearer; the count Palatine, as high-steward; the duke of Saxony, as grand-marshal; and the margrave of Brandenburg, as grand-chamberlain; were the seven electors. To these have since been added, the duke of Bavaria, and duke of Brunswick, as arch treasurer.

The general diet of the empire consists of the electors, princes, states, prelates, counts, barons, and free cities. The elector of Mentz, as high-chancellor, is the director or speaker. The members of the diet are divided into three Colleges: I. The electoral college. II. the college of princes, in which sit not only the spiritual and temporal princes of Germany, but the prelates who are not considered as princes, and the counts of the empire. The temporal and spiritual princes have each singly a vote; but the prelates and counts vote by benches, each bench having one vote. III. The college of the free or imperial cities. These cities, in the times of confusion, confederated for the benefit of trade, and for mutual defence against the princes, and at length became so powerful as to

make the third estate or college of the empire. Bremen is said to begin the association in the year 1164. There are now about sixty imperial cities, or hans-towns in Germany.

The empire was divided by Maximilian, about the year 1500, first into six, and twelve years after, into ten circles; namely, Franconia, Bavaria, Suabia, the Upper Rhine, Westphalia, Lower Saxony, Austria, Burgundy, the Lower Rhine, and Upper Saxony. In each of these circles there is a director for the management of civil, and a chief for regulating military affairs. The directors are fixed, but the chiefs or generals are chosen by the circles; each circle appointing the general to command the forces it is obliged to find in defence of the empire. To the directors the imperial chamber commit the execution of their decrees. The circles having many things to manage, hold frequent diets, in which they take measures for their safety, and upon occasion, they negotiate with the diets of other circles; and when this is done with a view to some certain point, they are styled Confederate Circles.



‘ be raised in the name of the public in the territories of the states, or garrisons to be placed in the old; and also when any treaties or alliances are to be concluded; none of these and other things of the like kind shall be undertaken or permitted without the suffrages of all the states of the empire assembled in the diet. They shall have perpetual right of making alliances among themselves and with foreigners, provided such alliances are not directed against the emperor and empire, against the public peace, or the present treaty in particular.

‘ The free cities, both in the general and particular diets, T. M. shall have decisive votes, and enjoy all their ancient rights, 67. customs and privileges.

The Ban of the empire is one of the most important points of the Germanic law. The Golden-Bull says nothing of its form; It is surprizing that the plenipotentiaries of Westphalia should be satisfied with referring the manner and or- T. Os. der to be observed in putting it in execution to the next diet, 8. which was to meet within six months after the conclusion of the treaty. In this diet it was settled, that the emperor should not put any prince or state under the ban without the consent of the electors. The colleges of the princes and imperial cities justly complained, and notwithstanding the numberless papers published on that occasion, they could not obtain the satisfaction they required, till the accession of Charles VI. to the imperial throne. The electors inserted Art. 20. in his capitulation, that he should not pronounce the ban without the knowledge and consent of the electors, princes, and states of the empire (g). This emperor expresses himself thus, concerning the forms to which he submitted himself on these occasions: ‘ When the process is about to

‘ end, the acts of it shall be laid before the general diet, to be taken into consideration, and examined by deputies of the three colleges of the empire, half Catholics and half Protestants, who shall be expressly sworn for that purpose. Their opinion shall be reported to the electors, princes, and states assembled, who shall pronounce thereon the final conclusion. The sentence, after confirmation by us or our commissaries, shall be published in our name, and the execution shall no otherwise be accomplished than by the tenor of the regulations of execution, and by the same

(g) Though this was inserted in the capitulation of the emperor Joseph, yet he, by his

own authority, put under the ban of the empire the electors of Cologne and Bavaria.

‘ circle

‘ circle to which the proscribed person belonged, or where he  
 ‘ inhabited. We will detain nothing of what shall be for-  
 ‘ feited, either for ourselves or our house, but the whole  
 ‘ shall be incorporated in the empire; and, before all things,  
 ‘ the injured party shall receive satisfaction.’

T. M. 65. This clause was inserted in the capitulation of the emperor Charles VII, and ought to be considered as part of the treaties of Munster and Osnabrug; the plenipotentiaries having beforehand guarantied what should be decided in the affair by the princes of the empire.

### HOUSE OF AUSTRIA.

T. M. 89. ‘ France shall pay, in three equal payments, the sum of  
 ‘ three millions of livres Tournois to Ferdinand-Charles,  
 ‘ archduke of Inspruck, after Spain shall have consented to  
 ‘ the alienation of Alfatia and the other cessions by the treaty  
 ‘ of Munster.’

This prince being dead, the three millions were paid to his brother Sigismund-Francis in 1663, 1664, and 1665.

### HOUSES OF BAVARIA, PALATINE, AND BRANDENBURG.

T. M. 11, 12. ‘ The house of Bavaria shall remain possessed of the electo-  
 T. Of. 4. ‘ ral dignity, the Upper Palatinate, and the county of Cham,  
 ‘ formerly belonging to the electors Palatine. In virtue of  
 ‘ this session, the elector of Bavaria shall renounce all the  
 ‘ debt of thirteen millions, and all his pretensions to the U-  
 ‘ per Austria.’

The duke of Bavaria, though he was omitted at the time when the number of electors was settled by the golden bull, had formerly enjoyed the electoral dignity alternately with the counts Palatine. The elector Maximilian-Emmanuel, in his manifesto against the emperor Leopold, in the beginning of the year 1701, expresses himself thus:

‘ The electoral dignity is very ancient in my house, by the  
 ‘ concordat of Pavia, between the emperor Lewis of Bava-  
 ‘ ria (from whom I am descended) and Adolphus, son of Ro-  
 ‘ dolphus of Bavaria, brother to the emperor Lewis, and  
 ‘ author of the Rodolphin branch. This dignity, which be-  
 ‘ longed to the house of Bavaria, was to be enjoyed alter-  
 ‘ nately by the chiefs of the two branches of which that  
 ‘ house



house was then composed. Some time after the Pavian concordat, the emperor Charles IV, declared enemy of the princes of my branch, published the golden bull, wherein he appointed that the eldest sons of the electors should always succeed their fathers. A prince of the Rodolphin branch enjoyed the electorate of my house when that bull was published. His son, by virtue of this golden bull, kept possession of the electorate, which by the Pavian concordat was to come to the eldest of my branch. His usurpation was continued by his descendants, notwithstanding the protestations of my ancestors so often repeated and renewed in full diet by duke William of Bavaria, my great grandfather.

1356.

An eighth electorate shall be created in favour of the count Palatine, his heirs and successors of the Rodolphin branch, together with all the Lower Palatinate, and in case the Willelmine branch should happen to be extinct, and the Rodolphin survive, then the Upper Palatinate and county of Cham shall return to the Palatine, and the eighth electorate shall be suppressed. T. M. 13,  
&c.

The treaties of Westphalia have settled nothing about the vicariate of the empire (h). At the death of Ferdinand III,

(h) When there is no king or the Romans, (that is, no person chosen in the emperor's life-time as his presumptive heir, who upon the emperor's decease immediately fills the throne upon his coronation, without a second election) the golden bull has provided for the administration of the government, by the electors Palatine and of Saxony, who have the title of Vicars of the empire. Each of these has his district, and they have likewise an Aulic Council, called the Tribunal of the Vicariate. Their acts are valid and binding; and, for the greater security, care is taken to insert an article in the new emperor's capitulation, by which he promises to ratify in the fullest manner, whatever the

vicars of the empire have done during the vacancy.

There are vicars of the emperor, as well as of the empire, but these offices widely differ. For, by virtue of his imperial power, the emperor may delegate his power to any prince in the empire, when he is not in a condition to execute it himself. But then this vicar is accountable to the emperor, who may annul all his acts, or even resume his office whenever he pleases.

There is also a vicariate of the empire in Italy, which has generally been executed by the dukes of Savoy.

Hence it appears, that unless the emperor is desirous of having a successor appointed in his life-time, there can be no solid reason

the elector of Bavaria claimed that dignity as annexed to his electorate, or rather to the Upper Palatinate, of which he was possessed. The elector palatine maintained, on the contrary, that the vicariate belonged to him as count of the Lower Palatinate; and the golden bull seems to favour his pretensions, where it is said, 'whenever the empire shall become vacant, the illustrious count Palatine of the Rhine, high-steward of the holy Roman empire, shall be vicar of the empire.' 1. It is not natural that it should be forgot to give the title of elector to the count Palatine, if the vicariate had been annexed to his electorate. 2. The golden bull calls him count Palatine of the Rhine, from whence it might be inferred that he was vicar of the empire by virtue of the Lower and not of the Upper Palatinate. This question divided the whole empire, and in vain did arbitrators offer to decide it. These two princes, in May 1724, came to an agreement, that for the future they should exercise the office of vicar in common in some neutral place appointed for that purpose. Accordingly the vicariate was so administered in the vacancy of the empire, after the death of Charles VI. Several princes protested against this agreement, which, to have the force of a law, ought to have had the consent of the emperor and the diet. At the death of the emperor Charles VII, the elector of Bavaria, his son, came to a new agreement, whereby the vicariate was to be exercised alternately.

Pursuant to the 48th article of the treaty of Munster, and the 4th of Osnabrug, wherein it was agreed that the succession of Juliers (undecided since the year 1609) should be settled without delay. Frederic-William, elector of Brandenburg, and prince William, Palatine of the Rhine, duke of Newburg, signed at Cleves the 9th of September, 1666, a treaty which was afterwards confirmed by the emperor Leopold.

T. Clev. 4. 'The duke of Newburg and his heirs shall keep the duchies of Juliers and Bergs, and the lordships of Winnendaal and Bresques. The elector of Brandenburg and his heirs shall possess the duchy of Cleves and the counties of La Marc and Ravensberg.'

The county of Ravenstein, about which the parties did not agree in 1666, has since been ceded to the Palatine house.

reason assigned for the electors giving him an associate, under the title of King of the Romans, since the emperor may devolve

any part of his authority, upon any prince he thinks proper, with the character of Vicar.

'The



\* The countries of the succession of Juliers shall remain inviolably allied. The contracting parties shall use the titles in common, and mutually guaranty the possession.\*

ibid. 6.

\* The treaty of Cleves shall in no way be detrimental to the pretensions, any princes may form, to the succession of Juliers.\*

ibid. 7.

This clause of reserving the rights of Saxony and Deux-Ponts, seems to make this treaty of Cleves only a provisional agreement. But how can such a clause be reconciled with the mutual guaranty between Brandenburg and Newburg? These kinds of contrarieties are too often to be found in treaties. This of Cleves, where the Palatine branch of Newburg is only mentioned, might have met with objections at the death of the last elector Palatine: they were removed by the treaty, the prince of Saltzbach concluded with the king of Prussia, by which the partition, and other dispositions of 1666, are confirmed.

\* As an equivalent for resigning the Hither Pomerania to the Swedes, the elector of Brandenburg and his successors, princes of his house, shall hold as immediate fiefs of the empire, the archbishopric of Magdeburg, excepting the four bailliwicks of Querfurt, Guterbok, Dam, and Borck, given to the elector of Saxony; the bishoprics of Halberstadt, Minden, and Camin. The city of Magdeburg shall enjoy all its ancient and other privileges; the bailliwic of Eglen, which belonged to the chapter, shall be given to Brandenburg, with a fourth part of the canonicates. The chapter of Halberstadt shall have no right in the government of the bishopric, and a fourth part of the canonicates shall be extinguished: Minden shall preserve all its prebends, and those of Camin shall be suppressed and united to the Farther Pomerania\*.

T. Of. 11.

\* See art. Sweden above.

## HOUSES OF MECKLENBURG, BRUNSWIC-LUNENBOURG, HESSE, AND BADEN.

\* In consideration of the duke of Mecklenburg's resigning the town and port of Wismar to the Swede, he shall have, as a perpetual and immediate fief, the bishoprics of Swerin and Ratzburg, with the power of suppressing the canonicates of the two chapters, and also a seat in the assemblies of the empire, and of the circle of Lower Saxony, with the double title and voice of a prince. For farther satisfaction to the said duke, there shall be given to him the two com-

T. Of. 12.

‘ mendams of Mirow and Nimerau belonging to the order of  
‘ Malta.’

In 1667, Christian Lewis, duke of Mecklenburg, put himself and dominions under the special protection of France, upon a promise of defence against all his enemies. The duke engaged, on his part, to aid the French with all his forces, to receive them into his states, to suffer them to raise recruits, whenever the dispositions of the peace of Westphalia were to be maintained.

T. Of. 13.

‘ The house of Brunswick-Lunenburg shall have the alternate succession of the bishopric of Osnabrug, with the Catholics, for resigning the coadjutorships of Magdeburg, Bremen, Halberstadt, and Ratzburg; and also the provostship of Walkenried and monastery of Groeningen. The debt contracted by duke Ulric with the king of Denmark, and granted by the said king to the emperor, who gave it to count Tilly, shall be annulled.

T. Of. 15.

‘ The house of Hesse-Cassel shall retain the abbey of Hirschfeld with all its dependencies, as the provostship of Gelingen, saving however the rights of the house of Saxony to what it possesses time immemorial.’

T. M. 52.

61.

T. Of. 15.

‘ The landgrave of Hesse and his successors shall enjoy the bailiwicks of Schaumburg, Ruckenburg, Saxenhagen, and Stettenhagen, which belonged to the bishopric of Minden. The right of primogeniture, introduced into the houses of Hesse-Cassel and Hesse-Darmstadt, shall be inviolably observed.’

By the right of primogeniture is meant in the empire the indivisibility of the dominions. ‘ We will (says Charles IV, in the golden bull) that for the future and for ever, the great and magnificent principalities, such as the kingdom of Bohemia, the county Palatine of the Rhine, the dukedom of Saxony, and the marquisate of Brandenburg, their lands, jurisdictions, homages, and vassalages, with their appurtenances and dependences, shall not be shared, divided, or dismembered in any manner whatsoever; but shall remain united for ever whole and entire. The eldest son shall succeed, and the whole domain and right shall belong to him alone.’ For a long time none but the electoral territories enjoyed this privilege.

T. M. 36.

‘ The precedency in the assemblies of Swabia, and in other general or particular diets of the empire, shall be alternative in the two branches of the house of Baden.’



## S P A I N.

\* All the articles of the treaty of Vervins, concluded in the T. Pyr.  
 year 1568, which are not derogated by the treaty of the 108.  
 Pyrennees, are again approved and confirmed.  
 \* Spain protests against all prescription, and reserves to it-  
 self the prosecution of all rights in an amicable way, and  
 \* not otherwise, which have not been expressly renounced,  
 \* and which are claimed upon France.'

These reserves, the work of ambition, were only proper T. Ver. 24,  
 to inflame it. Obsolete rights are almost null, in spite of T. Pyr. 90.  
 protestations; that is, they are commonly looked upon as  
 neglected pretensions, and a prince who should think of pur-  
 suing them by force of arms, would be accused of injustice  
 and breaking the peace. In the treaty of Ryswick in 1697,  
 the French and Dutch renounced all their respective preten-  
 sions. Well would it be if this example was followed. The  
 circumstances of the courts of Paris and Madrid, at the time  
 of the treaty of Vervins, required the before-mentioned re-  
 serves. The French and Spaniards had against each other  
 the strongest motives of enmity. They had not yet wea-  
 kened one another sufficiently to be sincerely reconciled. The  
 peace of Vervins was therefore really considered by Henry IV.  
 and Philip II. only as a truce convenient for their affairs, and  
 of which they meant only to avail themselves, to attack one  
 another with more vigour. In these dispositions it was natu-  
 ral that neither party should recede from what could be refu-  
 sed, or what might be made the ground of some pretension,  
 and even of a rupture. Affairs had taken a new turn, when  
 the Pyrenean treaty was concluded. The two crowns,  
 tired with a revenge, of which they were the victims, could  
 make a solid peace because they had felt all the inconveni-  
 encies of a war. Perhaps cardinal Mazarine would have re-  
 nounced the reserves made at Vervins, if he had not feared  
 that his vigilant enemies would have charged him with relin-  
 quishing something real, and betraying the interests of his  
 country.

When the king of Spain said, he reserved all the rights  
 which he had not expressly renounced, his sincerity ought  
 not to be suspected. It is the same thing as if he had said  
 simply, that he reserved the rights he had not renounced.  
 This is never set down in so many words in a treaty, nor is  
 inserted at all. There may indeed be in treaties, as in all

other contracts, articles understood and presumed; but the politicians seem to have justly made it a rule to have no regard to them. The more sacred the faith of treaties is, the more care should be taken not to give it the least blemish. Should treaties be so framed as to become the object of the subtleties and sophisms of ambition and interest? There would be nothing sacred among nations, if tacit conditions are admitted in their conventions; for it is but too well proved by woful experience, that men's passions blind them in their clearest and most evident engagements (a).

Every one remembers that in the year 1733 the court of France sent some battalions to the assistance of Dantzick, where Stanislaus, king of Poland, was besieged by the Russians. This weak body of troops was obliged to capitulate, and the commanding officer was contented with the stipulation of transporting them to a port in the Baltic-Sea. The presumed intention of the French was to be free, and they certainly understood that they should be transported to a neutral port; and yet count Munick sent them to Petersburg, where they were treated as prisoners of war. If the condition presumed and understood, of a treaty or capitulation, had any force, France and her allies would not have failed to complain to the Russian court of the treachery of their general. Nothing was said, only the French officer was blamed for his ignorance, and count Munick was said to know how to avail himself of all his advantages.

This remark serves to justify negotiators in the eyes of the world, who seeking in their treaties a certain conciseness which would be a great fault, complain of finding there circumstances which to them seem superfluous. All the particular cases and parts of an engagement cannot be too carefully expressed and separated. Plenipotentiaries make this a law, unless it be in the reduction of an article, by which they have not obtained what was desired. Then they use vague and equivocal turns and expressions which may give occasion for some explication. In the letters of cardinal Mazarine it

(a) From this very just reflection, it may be inferred, that nothing is more unreasonable than the alliance of France with Bavaria in 1741, and the war that ensued in contempt of the guaranty stipulated in the 10th article of the definitive treaty of 1738, to which the ambition and interest of France gave the subtle interpretation of Saying the Rights of a Third, which is the motive of her enterprizes against the house of Austria.



appears, how much pleased he is to give such a turn to some passages of the Pyrennean treaty, as France might take advantage of them in certain conjunctures (b).

The infanta Maria-Teresa, eldest daughter of Philip the IVth, shall espouse Lewis XIV. And as the public welfare and safety of the crowns of France and Spain require that, being so great and powerful, they may not be united in one, and that from henceforth the occasions of such a junction be prevented, their most Christian and Catholic majesties agree that the infanta Maria-Teresa, and her children, male or female, and their descendants, shall not succeed to any of the dominions which now do or shall hereafter belong to the Spanish monarchy. The most serene infanta shall make, before her marriage, a formal renunciation to all her rights, and shall make another jointly with the most Christian king, as soon as she shall be married. These words are prefixed to the contract of marriage of the infanta with Lewis XIV, which is part of the Pyrennean treaty. T. Pyr. 33

### HOUSES OF SAVOY, MANTUA, AND MODENA.

To prevent disputes reviving between the dukes of Savoy and Mantua concerning Montferrat, it is agreed that the treaty of Querasque, concluded the 6th of April, 1631, between Lewis XIII. and the emperor Ferdinand II, shall remain in full force. The duke of Savoy shall be maintained in the possession of that part of Montferrat which has been resigned to him. And the said duke renounces all his pretensions to the dukedoms of Mantua and Montferrat, and as a compensation shall possess the city of Trin, with a T. M. 92.  
T. Pyr. 54.  
T. Quer. 1.

(b) Of this there is a remarkable instance in the cardinal's treaty with Oliver Cromwell, by which Cromwell was to have the harbours of Flanders. In the tenth article, instead of promising to put him in possession of the said harbours, the cardinal only promises to leave the lord Protector in the quiet possession, sovereignty, &c. of the said places. — Accordingly the cardinal, after the taking of Dunkirk, ordered marshal Turenne to take possession of it and keep it. Had this been done, both the reason and result of the treaty had been very different. But Cromwell, by a timely discovery of the cardinal's design, prevented it, and got possession of Dunkirk.

‘territory sufficient to produce fifteen thousand and fifty crowns of gold.’

‘Pignerol shall be excepted out of the treaty of Que-rasque, which the duke of Savoy has resigned to France by particular treaties; namely, the treaty of St. Germain-en-Laye, May 5, 1632, and of Turin, July 5, 1632.’

It is needless to observe that France, on the 31st of May, 1631, concluded a private treaty with the duke of Savoy, by which the possession of Pignerol was secured.

T. M. 93. ‘In execution of the first article of the treaty of St. Germain-en-laye, the king of France shall pay to the duke of Mantua the sum of four hundred ninety-four thousand crowns, and his debtor the duke of Savoy shall be discharged from the same.

T. M. 97. ‘The castles of Reggiolo and Luzzara, with their territories, shall be comprized in the investiture of the duchy of Mantua. The duke of Guastalla shall be obliged to restore the said castles, reserving the annual pension of six thousand crowns, which he claims as his due.

T. Pyr. 97. ‘Spain consents to keep garrison no more in Correggio, and promises to ingage the emperor to the investiture of it to the duke of Modena in the same manner as he gave it to the princes of Correggio.’

## HOUSE OF LORRAIN.

T. Pyr. 62, &c. ‘The most Christian king consents to restore the duke of Lorraine to his dominions, except the imperial city of Moy-  
‘envie, united to France by the treaty of Munster: the du-  
‘chy of Bar, the county of Clermont, the towns of Stenai,  
‘Dun, Jametz, and their territory, which shall remain for  
‘ever incorporated in the crown of France. The fortifica-  
‘tion of Nantz shall be demolished. The dukes of Lorraine  
‘shall disband their forces, and be obliged to give free pas-  
‘sage to the troops France shall have occasion to send into  
‘Alsatia, Brisac, or Philipsburg. In case the duke of Lor-  
‘rain refuses to ratify these conditions, the king of France  
‘shall remain in possession of Lorraine.’

These conditions left hardly any thing to the duke of Lor-  
rain but an empty title. It was resolved to punish him for his  
infidelities, and prevent the dangers to be feared from his  
inconstancy. Pressed however by the most earnest sollicita-  
tions,



tions, cardinal Mazarine agreed by the treaties of Vincennes, of the 28th of February, 1661, to restore to the duke of Lorraine, Dun, and the duchy of Bar, on condition that France should remain possessed of Sirk, with its thirty dependent villages; hold in full sovereignty Caufinan, Saarburg, Phalsburg, with the dependencies of Marville belonging to Bar, and also enjoy the rights over the castle of Montclair, which the dukes of Lorraine held jointly with the elector of Treves. It would be tedious to name all the places which were resigned to France by the duke, and which formed a passage for the French troops from Metz into Alsatia, without touching the duke's dominions. This road was half a league wide and thirty in length.

In consequence of his rights on Montclair, the king of France at Fontainebleau, the 12th of October 1661, concluded a treaty with the elector of Treves. It was agreed that the castle of Montclair should be demolished for ever.

The duke of Lorraine had no sooner agreed to the articles of the treaty of Vincennes, than he repented of it, and was extremely uneasy at his situation. He entered upon a negotiation which ended in a most extraordinary treaty, and which is universally known, the treaty of Montmartre, the 6th of February 1662. The duchies of Lorraine and Bar were to be united to the kingdom of France, after the death of Charles IV, on condition that all the princes of his house should be ingrafted into the royal family, and succeed to the crown according to their rank of primogeniture, after the princes of the house of Bourbon. Till this union was compleated, the king of France was to begin with garrisoning Marfal.

This treaty did not take place, and to end all differences concerning Lorraine, a new agreement was signed at Metz the 31st of August 1663. The king was to be put in possession of Marfal, with a clause to restore it within a year to the duke of Lorraine, with the fortifications blown up, or to keep it, giving an equivalent. The treaty of Vincennes was confirmed in all its articles, except only that the duke might inclose Nantz with a bare wall.

M. M. 1.  
Between  
Spain and  
Unit. Pro.

### THE UNITED-PROVINCES.

Philip IV. king of Spain, acknowledges the freedom, independence, and sovereignty of the United-Provinces, renounces all his rights thereto, and consents to treat with the States-general.

It may be asked, whether the States-general, by virtue of this treaty, acquired the rights and pretensions the kings of Spain had formed upon some of their neighbours, as dukes of Guelders, counts of Holland, &c. The solution of this question has been given in what was said of the tacit and presumed conditions of a treaty. The States-general of the United-Provinces, and the particular states of each province, having neglected to stipulate that they stood in the place and stead of the kings of Spain, acquired only the right of governing themselves: All beyond that remained to the kings of Spain and their successors in the sovereignty of the Netherlands.

Ibid 3.

Besides the United-Provinces, the States-general shall hold and enjoy the town and mayoralty of Bois-le-Duc, the towns of Bergen-op-zoom, Breda, Maestricht, with their jurisdiction; the county of Vroonhoff, Grave, the country of Kuik, Hulst and its Bailliwick; Hulster-Ambacht, Axele-Ambacht. As to the three quarters of Outremeuse, namely, Dalem, Fauquemont, and Roleduc, they shall remain in their present state, and in case of dispute, it shall be amicably decided.

A dispute did arise between Spain and the United-provinces concerning these three quarters. An agreement was made the 25th of February and the 27th of May 1658, by which they were to be equally divided between Spain and the States-general. The next year, December the 13th, another treaty, by way of Interim, was also signed by these two powers. The affair was not finally settled till the 26th of December 1661, when it was agreed by a treaty, that the king of Spain should possess the country of Fauquemont and Dalem, and the town and castle of Roleduc. The towns and castles of Fauquemont and Dalem, and the country of Roleduc, were to remain to the United-Provinces.

Ibid 58, 68.

Neither the Spaniards nor States-general shall build any new forts in the low-countries, or cut canals that may



may be prejudicial to either of the parties. The Catholic king shall demolish the forts of St. Job, St. Donas, the Star, St. Teresa, St. Frederic, St. Habella, St. Paul, and the redoubt called Pape-mutz. The States-general shall demolish the two forts in the isle of Cafant, called Orange and Frederic, the two forts of Pas, and all those on the east side of the Scheld, except Lillo and Kieldrecht, called Spinola.

The king of Spain renounces all his rights to Graves, the country of Kierk and their dependencies, which the prince of Orange held formerly by mortgage, and of which the States-general gave him the property in the year 1611. He also renounces all his pretensions to the cities and lordships of Lingen, Bevergern, and Kloppenburg, which shall remain to the prince of Orange and his heirs.

The subjects on both sides are declared capable of inheriting one another, either by will or without, according to the custom of the places.

Both parties shall remain in possession of the countries and commerce which they hold in the East and West-Indies. The Spaniards shall enjoy the privileges they now possess in the East-Indies without extending them farther, and the subjects of the States-general shall not frequent the places where the Castilians are settled.

The Spaniards, and subjects of the United-Provinces, shall not sail to or trade in the harbours, ports, forts, lodgments, or castles, or any other places belonging to the other party in the east-Indies.

## BASIL, SWISS CANTONS, AND SOME HANS-TOWNS.

The city of Basil and the Swiss cantons are in no way subject to the tribunals and courts of the empire.

The free cities which are included in the dominions possessed by the Swedes in Germany shall preserve the same liberty of navigation which they have hitherto enjoyed as well with regard to the empire as to foreign kingdoms, republics and states.

NAME

NAMES of the PRINCES, &c. Parties and Guarantees of the TREATIES of WESTPHALIA.

The emperor and house of Austria, France, Sweden; the electors of Mentz, Bavaria, Saxony, Brandenburg; the bishops of Bamberg and Wirtzburg, the princes of Saxe-Altenburg, Brandenburg-Culmbach, Brunswic-Lunenbourg, Zell, Grubenhagen, Wolfenbittel, Calemberg, Mecklenbourg, Wirtemberg, Hesse-Cassel, Hesse-Darmstadt, Baden, Saxe-Lavenburg; the counts and barons of the bench of Weterania and of Franconia; the cities of Strasburg, Ratisbon, Lubeck, Nureimberg, Ulm, &c.

- T. Of. 17. All these parties shall be obliged to defend and maintain all and every of the conditions of the peace of Westphalia without distinction of persons or religion. In case any difference arises, endeavours shall be used to decide it in an amicable manner; if that method fails, the injured party shall be aided with all the forces of the others.

PROTESTATIONS.

The pope's nuntio at Munster protested against the peace of Westphalia on the 14th and 28th of October 1648. A month after, pope Innocent himself made his protestation. The 20th of January 1649, Charles II. duke of Mantua protested against the stipulations concerning his disputes with the duke of Savoy.

After this account of the Westphalian and Pyrannean treaties, and of those relating thereto, it will not be improper to add a few remarks before we come to the peace of Oliva.

Persons designed for negotiation cannot sufficiently study the treaties of Munster and Osnabrug. They are perfect patterns in their kind, for order, precision, and clearness. The superior genius of the ministers who framed them is conspicuous throughout. Beholding at once an affair in all its different views and lights; perfectly informed of the interests on which they were treating, their near or distant relations; they discarded whatever was foreign to the point, and rejected all vague and superfluous expressions, which throw no light upon the subject.

It



It is not so easy as may be imagined, to give a good form to a treaty. How many plenipotentiaries who deserve the reputation they have gained, have split upon this rock? Some can hardly be followed; no order in the ideas, no connexion in the matters; and the reader who wants instruction is to begin with unravelling a chaos. Others there are who seek to insert in their treaties the finesses they used in the course of their negotiation; they are dark, confused, indistinct; their meaning must be guessed. These cannot finish an article without slipping in something superfluous; they swell minute things, and love to consider them as important objects, thinking their negotiation will thereby acquire the more dignity.

If such considerable defects are often found in treaties penned by men of rare talents in business, what a subject for criticism must the acts of those be, who are little versed in affairs, of a narrow genius, and owe solely to favour the honour of being charged with the interests of their country and of wording its treaties?

Another remark may be added for the sake of those readers who have no knowledge of this subject; that, besides the conventions which form the public law, there are, in all the treaties, articles of another kind. These concern only the moment wherein the treaty is concluded, and, as consequently they cannot have any influence for the future, need not to be enlarged upon; such are the stipulations for the restitution of a province, a place, a castle to a state from which it had been taken: Or for restoring things to their former situation without creating any new title. In speaking of the house of Hesse-Cassel, was there any occasion to say, that the plenipotentiaries of Munster and Osnabrug agreed that there should be paid to the said house one hundred thousand rixdollars within the space of nine months, and at the expence of the archbishops of Mentz and Cologn, the bishops of Paderborn and Munster, and the abbot of Fuld? It should, however, have been mentioned, if Hesse had made so great a figure in the war as Sweden.

There are also another sort of articles, which are omitted because they are mere matters of form, and common to all treaties of peace. They never fail to begin with saying 'there shall be a true and perpetual peace between the parties: Hostilities shall cease: There shall be a general amnesty on both sides: All the prisoners shall be released without ransom: The subjects of the two powers may resort to and settle in each other's territories,' &c. The whole

whole concludes with a promise of faithfully performing engagements and ratifying them within such a time.

It may not be amiss to examine an important question concerning the ratification of treaties, which some consider as an act necessary to their validity, whilst others think it only a form authorized by custom which gives authenticity to the engagements but adds nothing to their force.

Grotius is of this last opinion. 'We may (says he) be bound by another man's act, if it appears that we have deputed and empowered them to act for us, either as our agent in that particular business, or under a general qualification. And it may likewise happen that where the commission is general, he that is so commissioned may bind us by acting contrary to his private instructions: For here are two distinct acts of the will, the one whereby we bind ourselves to confirm and ratify whatever our agent shall do in such an affair; the other, whereby we bind our agent, that he shall not act beyond our secret instructions. This we observe on account of those things which ambassadors promise for their masters, by virtue of their instructions, but exceeding their private orders.

'A sovereign (adds the same author) is bound by the act of his minister, in case he transgress not the bounds of his public office, though he act contrary to his private instructions. If a minister transgress his commission, and promise more than he can perform, he himself shall be bound to the full value, unless some law sufficiently known shall prevent it. If there shall be found any fraud in the case, that is, if he shall pretend to have more power than was really given him, he shall then be obliged to satisfy for the damage thereby sustained; and if through his crime great injury be done to the adverse party, he shall be bound to suffer punishments answerable to his crime. In the first case his goods shall make satisfaction, and if these fail, his corporal liberty: In the latter case, his person or his goods, or both, according to the greatness of his crime.'

The author who published, some years since, an essay upon the principles of law and morality, seems to have juster notions of this matter than Grotius. After having established his principles concerning the engagements contracted by an agent, he adds, 'the inconveniency from the unfaithfulness of ambassadors, is remedied by the reciprocal stipulation of the exchange of the ratifications, which is as much as to say, that the time agreed for sending the ratifications is allowed to the sovereigns to see whether their

Grot.  
B. II.  
Ch. 12.

Ibid.  
B. III.  
C. 22.

private



private instructions have been executed; and in case they have not been followed, to retract the promises made by their ambassadors.

Indeed a treaty is not in full force till ratified by the powers that made it. To adopt this principle is certainly the interest of every prince, in order to avoid the danger of being a victim to the presumption, infidelity, or corruption of a minister, whom he charges with the care of discussing and settling his right and pretensions. If the force of the expressions used in drawing up an ambassador's full powers be only attended to, there is no doubt that the ratification of the treaties is to be considered as a superfluous formality. But here we must be on our guard: We must not reason upon the particular ideas raised by the expressions, so much as upon a general idea of a full-power. Now how extensive soever the full powers of a plenipotentiary may be, we know how to give the style its due value; and an ambassador himself scruples not to own a hundred times in the course of a negotiation, that his hands are tied up, that he waits for farther instructions, &c. Since the authority of a minister is actually limited, though by his full power it seems to be without bounds, it may from thence be inferred, that a treaty has not all its force till ratified by the prince, nor till then becomes obligatory. It would therefore be imprudent to stipulate that the conventions should be executed at the time of signing: This is what has not been duly attended to by some ambassadors.

## C H A P. II.

PACIFICATION OF THE NORTH,  
PEACE OF OLIVA, OF COPENHAGEN, &c.

**M**argaret of Waldemar, called by the historians the Semiramis of the north, about the year 1387, united the three kingdoms of Sweden, Denmark, and Norway, and having formed the grand design of making, in some measure, all her subjects but one nation, she assembled at Calmar, in 1392, the states general of the three kingdoms, who very readily consented to the union. It was settled by a solemn treaty, that the Danes, Swedes, and Norwegians, should preserve their respective laws, customs, and privileges, though united under one head, and that the king elected by turns by each nation should reside among those by whom he was chosen.

Eric, her nephew, succeeded Margaret; but being deposed by his subjects for his ill conduct, Christopher of Bavaria was placed on the throne in his room. Though this election was managed solely by the Danes, it was confirmed by the Swedes, whose turn it was to chuse. They had not afterwards the same complaisance, for the states of Denmark having chosen Christiern of Oldenburg to succeed Christopher of Bavaria, the Swedes conferred their Crown on Charles Canutson, of the race of their ancient kings \*.

\* The same  
with Charles  
VIII.

The treaty of Calmar from hence began to be productive of calamities in the north, instead of the advantages intended by Margaret. The union being dissolved, could not but create animosities between the three kingdoms, as it had confounded their interests, and given them rights and pretensions upon one another. The kings of Denmark looked upon the election of Canutson, as an incroachment upon their authority. They imagined Sweden was to be one of their provinces; and indeed that kingdom must have submitted to the Danish yoke, if Gustavus Vasa had not found in the Forests of Dalecarlia, avengers of their country.

The cruel war between Sweden and Denmark was not yet at an end, when a new source of discord was formed in



in the north during the war which the Muscovites carried into Livonia about the middle of the sixteenth century. Gothart Kettler, grand master of the Teutonic order, and as such, sovereign of Livonia, was not in condition to oppose the irruption of his enemies. Revel, despairing of relief, sought the protection of Sweden, and submitted to that crown in 1560, whose example was quickly followed by all Estonia, of which that city is the capital.

The Swedes believing they could not preserve their new acquisition but by the destruction of the Teutonic order, refused all assistance to Kettler. He, out of revenge, and to save at least some part of his dominions, resigned to the Poles all his right to Livonia, reserving only Courland, for which he consented to do homage. When the Muscovites were repulsed, the Poles asserted their claim to the cession of Kettler, and demanded of Sweden, Revel and Estonia, which had not been able to throw off the yoke of their lawful sovereign for the sake of a new one. The Swedes knew perhaps, that a nation abandoned by their prince, is no longer subject to him, and therefore only answered the Poles by taking up arms.

It was hoped, that the bloody wars kindled by this dispute were going to end, when the Poles were seen to give their crown to Sigismund, eldest son of John king of Sweden and Catherine Jagellon, a princess whose name was dear to them, and whose ancestors had governed the republic with glory. The calm, however, was short and transient, John died in 1592; his son went immediately into Sweden to be crowned; but he made too much haste to return to his Polish dominions before he had established his authority over the Swedes; and, committing a second error worse than the first, he resigned to the republic of Poland his rights, as king of Sweden, to Livonia.

This imprudent conduct the more easily raised discontents, as Charles of Sudermania, brother of the late king, had been endeavouring to gain a party. This able and ambitious prince roused the pride of the Swedes, by representing to them, that their struggles to avoid the tyranny of the Danes were become fruitless, if they did not take courage and prevent their country from being a province of Poland. He described the Poles as greedy and severe republicans, who were going to be invested with all the high offices of Sweden in order to crush her, and whose violences were much more to be dreaded than those of the Danes;

Danes ; since the religion of the kingdom could not be safe under a prince whose court swarmed with priests of the Romish religion.

1629.

Sigismund, informed of what was contriving against him, thought his presence might reclaim or awe the Swedes ; but it was too late. Charles of Sudermania, who had secured to his interests all the orders of the state, prevented his entrance into the kingdom, and defeating the troops which attended him, caused himself to be proclaimed king (c). This war, sometimes interrupted or waged with less vigour, by reason of the old quarrels between Sweden and Denmark, took up the whole reign of Charles IX, and employed his son, the great Gustavus Adolphus, till, upon his expedition into Germany to assist the Protestants, he concluded with Poland the truce of six years, mentioned in the foregoing chapter.

Peace at length prevailed in the north. In 1613 the Danes had solemnly renounced all their rights to Sweden ; they had the trifling consolation left them, of bearing the arms of that kingdom, and Norway was not contested. It is true, the truce between the Swedes and the Poles was only for a short space, but it was very easy to dry up the fountain of all their disputes. It was the interest of Poland to seek peace, as being almost exhausted, whilst Sweden had visibly gained an ascendant in the north. The making a second truce in 1635, instead of a treaty, was done on purpose to manage the Poles, and by leaving them in some hopes of recovering their lost provinces, to render more easy an accommodation, opposed by the emperor's emissaries, and necessary to promote the progress of the Swedes in Germany.

Casimir, attacked by the Muscovites, and disturbed by the revolt of the Cossacks, began in 1654 a negotiation, of which the truce of 1635 was to be the basis, peace was just going to be settled, when his minister at Stockholm, protested against the coronation of Charles Gustavus, two days after the abdication of queen Christina.

This spark rekindled a flame which spread over the north. The Swedes thinking themselves abused, demanded war, and the new king, had his troops and finances been proportioned to his grand designs, would have instantly gratified his subjects. He spent the rest of the year 1654 in making prepa-

(c) In 1604 about 147 years after the death of Charles VIII.

rations,



rations, exercising and augmenting his forces, amassing money, and forming a strict alliance with the elector of Brandenburg, duke of Prussia, and in the beginning of the next year he entered Poland at the head of his army.

Never was progress more rapid; all gave way to Charles's furious attacks, terror flew before him and disarmed his enemies; was it as easy to keep as to make great conquests, Casimir would never have recovered his crown. Charles resolved to demolish him, and his obstinacy proved the safety of his enemy. The Poles, who had trembled for fear, were fired with resentment; their shame for behaving so cowardly, rendered their courage the more impetuous, and they formed an army, which was a more honourable asylum for Casimir than Silesia, where he had been forced to conceal himself.

The Muscovites, who were at war with the Poles, began to look with a jealous eye upon the power of the Swedes; and made a diversion in Livonia. On the other hand, the princes of the south, and west of Europe, would no longer be indifferent spectators of the quarrels in the north. The emperor Ferdinand III. seized the opportunity of revenging the injury done him by the peace of Westphalia, and seeing Casimir's affairs begin to be restored, sent him succours, and engaged Denmark to make a diversion in favour of the Poles. The cham of Tartary marched at the same time to their aid a hundred thousand men, which rendered ineffectual the alliance Sweden had just made with Ragotzki, prince of Transilvania.

In turning his principal forces against the Danes, Charles-Gustavus saw himself obliged to stand upon the defensive in Poland; and from that time the elector of Brandenburg, thinking it his interest to renounce his alliance, concluded with Casimir, the 17th of September 1657, the famous treaty of Velau. Denmark had the same fate as Poland had endured, that kingdom was almost entirely conquered, and Frederic III. quickly concluded a separate peace.

The peace of Rostchild, signed the 8th of March 1658, and managed by France and England, would have paved the way to the pacification of the north, had it taken effect. But Frederic, encouraged by his allies, was ashamed of his fearfulness. The arms of Sweden were represented to him as an irresistible torrent, but which flows away and disappears so much the more suddenly, as its waters are carried with the greater violence. The assistance of the United-Provinces, and their declaration of war against Charles, determined the

court of Denmark to fall off from the terms they had accepted (a).

All Europe would at length have taken part in the quarrel of the north, if France and England, by a treaty of the 21st of May 1659, had not agreed with the United-Provinces to take the speediest and most effectual measures for restoring tranquillity. The States-general withdrew their succours from the Danes; the English promised to give none to Sweden, and the first fruits of this negotiation was a peace signed at Elsenor the 9th of December 1659, between Charles-Gustavus and the United-Provinces.

Fortune, who had lavished her favours upon the Swedes, began to forsake them and incline to their enemy, but nothing hastened more the success which the mediators, assembled at Oliva and Copenhagen, flattered themselves with, than the death of Charles-Gustavus. This prince, worthy of the great Adolphus's throne, and one of the most illustrious persons of his age, died the 23d of February 1660. His courage could not brook making a peace in circumstances, wherein his enemies had less occasion for it than he. His son signed the treaty of Oliva the 3d of May 1660, with Poland, the emperor Leopold; and the elector of Brandenburg. The treaty of Copenhagen was concluded the 6th of June the same year, between Sweden and Denmark.

The peace however was not general in the north. Muscovy continued the war with Sweden and Poland. The treaty of Pleyssiemond disarmed the Swedes the 1st of July 1661; but the Poles and the Russians were not finally agreed till the 25th of April 1686, when these powers leagued together in a war against the Turks. Hostilities had however ceased from the 30th of January 1667, by a truce of 12 years, which was renewed or prolonged by treaties signed the 17th of March 1670, the 9th of April 1672, and the 7th of August 1678.

(a) It must be observed, that it was not from the treaty of Rostchild that Frederic fell off, but from the preliminary treaty of Toststrup, concluded the 18th of February by the mediation of England. This he refused to ratify, as thinking it too disadvantageous. The king of Sweden, who had passed into Zealand over the ice, continued his march to Rostchild, and besieged Copenhagen; but at the repeated instances of the French and English ministers, the peace was concluded the 8th of March following. The treaty of Toststrup was the basis of that of Rostchild, which was executed after having been duly ratified by his Swedish majesty at Gottenburg the 24th of March, and by the Dane at Copenhagen the 29th.

TREATY



TREATY OF OLIVA.

S W E D E N.

John Casimir King of Poland, renounces all right to the kingdom of Sweden and principality of Finland. He reserves the power of bearing the arms and titles of that kingdom, except when he writes to the king of Sweden. His successors shall not use the same titles, nor form any pretension to Sweden. T. Ol. 5.

This last clause could only regard those of his successors who should be of his family, the republic of Poland having no claim to the throne of Sweden. The eldest branch of the house of Vasa ended in the person of king Casimir, who after his abdication retired into France, and died a mitred abbot, which suited him better than a crown. Gustavus-Adolphus was the last male heir of the younger branch.

The king and republic of Poland surrender to Sweden all Livonia beyond the Dwina, except the towns of Duenenburgh, Rossiden, Ludsen, Marienhufen, and other places possessed by the Poles during the truces of 1629 and 1635. T. Ol. 4.

All Livonia was then in the hands of the Muscovites, which they did not evacuate till the next year, when the Swedes, by virtue of the 2d and 3d articles of the treaty of Pleyssmonnd, took possession, except the southern part, which was restored to Poland in 1667, pursuant to the 6th article of the truce concluded that year between the Poles and the Muscovites.

Sweden shall also possess the isle of Ruynen, and all the territory on the left of the Dwina, which the Swedes held during the truces of 1629 and 1635.

The kings of Poland and Sweden and their successors shall equally use the stile and arms of Livonia, with the title of dukes.

The 18th article of the treaty of Oliva deserves notice for its singularity. It says, 'that the dead bodies of the general and subaltern officers, if demanded, shall be restored to the Swedes. And as for those that are buried at Elbing, Marienburgh, or in any other place of Prussia or Poland, they shall lie inviolated.'

Denmark renounces all pretensions to Sweden.

Sweden shall possess in full sovereignty Jemptia, and all that part of Heredalia which is separated from Norway by

T. Cop.  
T. Brom.  
referred to  
by T. Cop.  
the 25.

‘ the mountains of Ostrafiel. The king of Denmark gives also  
 ‘ to Sweden the isles of Oesel and Gotland.

T. Cop. 4. ‘ The provinces of Halland, Schonen, and Blecking, are  
 ‘ resigned to Sweden, to be enjoyed in full sovereignty.’

The king of Sweden had been in possession of Halland since 1645, by virtue of the 25th article of the treaty of Brom-Sebrô. Christiern IV. had yielded it to Christina for 30 years, as a pledge for the freedom of the Swedes in the Straits of the Sound and the Belt. The thirty years expired, Denmark could not retake possession of that province without giving Sweden an equivalent security, such as should be approved of. So frivolous a convention teaches negotiators at once how extremely nice princes sometimes are, and yet easy to be satisfied (b).

T. Ros. 5. ‘ Sweden shall possess in full sovereignty the island of  
 ‘ Bornholm.’

This island was also given to Sweden by a particular act, which is generally annexed to the treaty of Copenhagen.

T. Ros. 6. ‘ The king of Denmark resigns to Sweden the fiefs of  
 ‘ Bahns, with all their dependencies, and likewise all his

T. Cop. 9. ‘ jurisdictions, both ecclesiastical and civil, on the isle of Ru-  
 ‘ gen.

T. Ros. 3. A ‘ The ships of the king of Sweden and of his subjects, of  
 ‘ what province soever, shall not be liable to any toll, search,

T. Brom. 3. ‘ visit, detention or charge, in passing the Sound and the  
 ‘ Belt. All the effects belonging to the Swedes, or to other

T. Cop. 3. ‘ subjects of Sweden, shall enjoy the same privilege, though  
 ‘ freighted on board foreign ships.’

(b) At present, when some crowns have made it a rule to observe treaties no farther than it suits their conveniency, it would not be amiss to introduce the custom of giving pledges for the performance of articles. If when the emperor Charles VI. concluded the treaty of 1738 with the king of France, in which he paid him before-hand for the guaranty of his Pragmatic Sanction, he had required that Alsatia or Burgundy should be surrendered him for 30 years, on condition that it should remain to the house of Austria if the guaranty was not observed; if this had been done, should we have seen the fatal war of 1741, and would France ever have been allied with the elector of Bavaria? In the late peace between England and France, the English were obliged to give hostages for the surrender of Cape Breton.



D E N M A R K.

The kings of Denmark shall bear the arms of Sweden, T. Ros. 13.  
provided no right or pretension to that crown is inferred  
from thence.

The king of Sweden renounces, in favour of the king of T. Ros. 13.  
Denmark and the duke of Holstein-Gottorp, all his rights,  
as duke of Bremen, to the counties of Delmenhorst and T. Cop. 18.  
Ditmarsen, and to the effects of certain nobles of Hol-  
stein.

By the fifteenth article of the treaty of Copenhagen, the  
king of Sweden renounces all his rights acquired by conquest  
to the provinces which he restores to Denmark. In reading  
this article, one would think it concerned two barbarous na-  
tions, who acknowledge no other right but that of the long-  
est sword, and believe the seizing of a country a sufficient  
title to the sovereignty of it. There is no wonder such a  
notion should subsist in 1660, since, at this very time, it has  
not fallen into that contempt it deserves and creates. A  
prince no doubt may very justly conquer a province that be-  
longs to him, and refuse to restore it. He may even extend  
his conquests beyond the country he claims, for a punish-  
ment of his enemy's injustice, and for a satisfaction of the  
expences of a war, he was forced into. But arms of them-  
selves give no title to possession, they suppose a prior, and it  
is only to fix this contested and equivocal right that a war is  
made. If it was otherwise, a prince dispossessed by his enemy  
would have no longer any right to the dominions taken from  
him, and consequently it would be ridiculous for the conquer-  
or to require of him a cession by a treaty of peace. To this  
may be added one plain argument, if conquests by their na-  
ture form a right of possession for the conqueror, it matters  
not whether the war be founded upon just or unjust motives.  
But who is so bold as to advance such a proposition? For no  
reasonable man can deny that a prince who takes up arms  
without a just cause, ought to indemnify his enemy for all  
his losses occasioned by the war.

## SWEDEN, DENMARK.

T. Ref. 2.

T. Cop. 2.

The kings of Sweden and Denmark renounce all alliances which have been made to the prejudice of one another. They shall form no such hereafter, and each party shall refuse any aid, directly or indirectly, to the enemy of the other.

T. Cop. 6.

These two princes shall keep up in their territory, each at his own expence, the sea-marks for navigation between Schagen and Salterbo. The Swede consents never to exact any toll in the Sound; but Denmark shall pay him every year, by two equal payments, the sum of 3500 Rix-dollars.

T. Cop. 7.

Every Swedish ship passing the Sound shall salute the castle of Cronenburg; which shall be returned. Every Danish ship in the Sound shall salute the castle of Elsenburg, which shall be returned. The Swedish and Danish ships, when they happen to meet, shall not lower their top-sails.

T. Cop. 8.

When one of the two kings shall send into or out of the Baltic above five men of war, or more than 1200 soldiers, he shall give notice of it to the other three weeks before.

## POLAND. BRANDENBURG.

T. Brom.

24.

The inhabitants of Weismar and Pomerania shall be restored to all the rights, privileges, and customs, granted them by the treaty of Odensee.

When the treaty of Brom-Sebrô was concluded the 17th of August 1645, Sweden was in possession of Weismar and all Pomerania. The inhabitants of the Swedish conquests, preserved by the treaty of Osnabrug, enjoy, in the passage of the Sound and Belt, all the privileges granted to the Swedes themselves. Therefore the 34th article of the treaty of Brom-Sebrô concerns only the Pomeranians of the Farther Pomerania, subjects to Brandenburg. By virtue of the treaty of Odensee, concluded the 23d of July 1560, their ships were to be treated in the Straits of the Sound and Belt as those of the most favoured nation. It must be observed, that from 1660 to 1720, when Denmark promises to treat any state as the most favoured nation, Sweden must always be excepted, which during that space enjoyed particular privileges,



vileges which were forced to be renounced after the death of Charles XII. In the sequel of this work will be seen the alterations in the north since the beginning of the present century, and that the treaties of Stockholm and Neustadt have derogated from several articles of the treaties here mentioned.

The king of Sweden and elector of Brandenburg renounce the treaties made between them the 17th of January 1656 at Koninberg, the 25th of June 1656 at Marienburg, the 20th of November 1656 at Labiavic. They declare them null, and protest that they will never from thence claim any right against Poland.

By these treaties the elector Frederic-William acknowledged the dukedom of Prussia to be a fief of the crown of Sweden; Charles-Gustavus discharged him from all vassalage, and gave him in full sovereignty the province of Warmia in Royal Prussia, and some palatinates in Poland.

Ducal Prussia is declared independent; but on failure of heirs male in the family of Frederic-William, elector of Brandenburg, that province, with all its rights, shall return to the republic of Poland.

Instead of the ancient dues of vassalage from Prussia to Poland, there shall be a perpetual alliance between the two powers. Frederic-William and his descendants, dukes of Prussia, shall never make alliance with the enemies of Poland, furnish them with warlike stores and provisions, or grant them a passage through their territories. In all the defensive wars the king of Poland shall be obliged to wage, the duke of Prussia shall lend him 15000 foot and 500 horse, to be paid by the Poles as soon as they have entered their dominions.

The king of Poland, on his part, engages to defend Ducal Prussia against all attacks. The Polish troops shall at all times have free passage, and the Prussians shall freely march through the Polish territories.

In an article of the alliance of Velau, Poland had engaged to pay the elector of Brandenburg three hundred thousand rixdollars, and to leave him Elbing till the whole sum was paid. By a course of extraordinary events, it happened that this last clause was not executed, and consequently Poland may be thought not to be too forward in performing it. The elector of Brandenburg, ever watchful of his interests, renewed his demands a thousand times, and tired with receiving no satisfactory answer, he resolved at last to do himself justice. He ordered some troops to march towards El-

bing, and the town, without making the least resistance, opened the gates on the 11th of November 1668.

Augustus II, king of Poland, complained of this as an enormous breach of the law of nations. He sought to intimidate the elector, but not succeeding, and unwilling to make himself a dangerous enemy, at a time when he was filling the north with his intrigues, and meditating a rupture with Sweden, he listened to an accommodation, which was signed at Warsaw the 12th of December 1699. In this treaty are renewed all the articles of the perpetual alliance of Velau.

T. Vel. 1. The elector of Brandenburg engages to resign to the  
Poles, the 1st of February 1700, the town of Elbing, on  
condition that they pay him three hundred thousand rix-  
dollars, three months after the meeting of the next diet,  
and that on the eve of the evacuation of Elbing, the crown-  
jewels be put into his hands by way of Pledge. In case  
the Poles break their engagement, the elector shall re-enter  
Elbing, and receive the income of its territory till the  
whole sum is paid (c).'

#### EMPEROR AND SWEDEN.

T. Ol. 22. 'The emperor and king of Sweden shall respectively keep  
to the dispositions of the treaty of Osnabrug.'

#### HOUSE OF HOLSTEIN.

T. Ref. 22. 'The king of Denmark shall satisfy the duke of Reswic-  
Holstein-Gottorp.'

Accordingly Frederic III, king of Denmark, and the  
duke of Holstein, signed at Copenhagen, the 22d of May  
1658, a treaty, by which the king resigned to the duke, for  
himself and his heirs male, the duchy of Sleswic and the isle  
Fehmeren, in full sovereignty; transferrsd to him the chap-  
ter of Sleswic, except four prebends, and gave him the baili-  
wic of Schwabstadt. The ancient unions of 1533 and 1623  
were also renewed; that is, the community of government  
was confirmed, which gives an equal power to the two parties

(c) This knotty affair still re-  
mains in statu quo, and will  
long remain so, if some expe-

diend is not found against the  
fatal consequences of unanimity  
in the votes of the diets.



over the duchy of Holstein, both alike receiving the homage and oath of fealty of the subjects, who are to obey only the orders which shall proceed from the common regency of the two sovereigns.

A more faulty government can hardly be conceived. If it had been intended that peace should subsist between the kings of Denmark and the dukes of Holstein, the dominions, and not the authority, should have been shared (d). This treaty was accompanied with two diplomas of Frederic III, ratified by the Danish senate.

'The transactions passed at Copenhagen the 22d of May T. Cop. 17, 1658, between the king of Denmark and the duke of Sleswic-Holstein-Gottorp, shall be exactly observed.'

### C O U R L A N D.

'The duke of Courland, who shall be restored to his do- T. Ol. 6. minions, promises that no offence or reprisal shall be committed against Sweden, saving all allegiance to Poland.'

'The kings of Sweden, as dukes of Livonia, shall not exact for the future any service from the dukes of Courland.'

### P O L A N D. R U S S I A.

'The duchies of Smolensko, Severia, Czernigove, and T. Mus. 1636. the city of Kiow, and the territory of a mile from its walls, shall remain to the czar. The Boristhenes, from Kiow to Tartary, shall serve for a boundary to the two powers. 3.'

'The preceding truces shall be maintained in their full force, except the articles from which it shall be derogated.'

'The czar shall not take under his protection the Cossacks on the right of the Boristhenes. Nor shall Poland protect those on the left of the same river. Truces of 1667 and 1672.

'The parties shall inform the Nogais-Tartars of their amity. If these people make any irruption into their territories, both powers shall repulse them. T. of 1667. 18.'

'If they are supported by the Turks, war shall be declared against them.'

(d) Accordingly this union or community of authority has caused a perpetual dissention, of which the king of Denmark has availed himself, to deprive the duke of part of his dominions, with whom he ought to have governed there in common.

- T. Mos. 21. 'The Muscovites shall admit no subjects of Poland into their troops, nor the Poles any Muscovites into theirs.'

## RELIGION.

- T. Vel. 16. 'The Catholics of Ducal Prussia shall have the free exercise of their religion, and shall fill all sorts of civil employments.'

- T. Ol. 4. 'The Catholics of the isle of Ruynen shall not be disturbed for their faith, but shall perform divine service in their own houses only. The Livonians shall enjoy the same privileges.'

- T. Plys. 11. 'All the subjects of Sweden and Russia trading with one another, shall freely profess their religion. They shall be allowed to assemble in their own houses, but shall not build churches. The Russians shall keep their church at Revel.'

- T. Mos. 9. 'In the places yielded by Russia to Poland, and by Poland to Russia, there shall be liberty of conscience, but without the public exercise of the religion, which shall not be the same as that of the prince. The Roman Catholics however in the suburbs of Kiow and Smolensko may have churches.'

## NAMES OF THE PRINCES, Parties, and Guarantees of the Peace of the North.

- T. Ol. 35. 'The emperor Leopold, as head of the house of Austria, Charles XI. king of Sweden, John Casimir king of Poland, and Frederic-William elector of Brandenburg, do agree to guaranty the treaty of Oliya. If any one of them shall be attacked or molested, contrary to the disposition of this treaty, good offices shall first be used; but if the injuries are done by arms, the injured party shall be assisted with forces within two months after requiring it, and till peace shall be firmly established.'

- T. Ol. 31. 'The same princes guaranty in the same manner all the articles of the treaty of Copenhagen between Sweden and Denmark; and the treaty concluded there shall be deemed part of that of Oliya.'

- T. Cop.  
T. Ol. 1. 'The king of France guaranties all the articles of the treaties of Oliya and Copenhagen.'



England and the United-Provinces are also guarantees of the treaty of Copenhagen, and promise, whenever required, to avenge the breaches of the same.

When these treaties were concluded, guarantees or sureties had not been long used in Europe. Some other thing was to supply their place; for princes never relied much upon reciprocal promises. For a good while the observance of treaties was sworn upon the most noted reliicks, upon a piece of the real cross, upon the evangelists, and upon the Host, or body of Christ. It was promised not to procure absolution from the oath, and in case of infraction, to submit to the ecclesiastical censures. In the famous treaty of Cambray, concluded the 3d of August 1529, between Francis I. and Charles V, in explanation of the treaty of Madrid, we find a striking instance. These princes, 'in case of contravention, submit themselves to the ecclesiastical jurisdictions, coercions, and censures, even to the calling in of the secular arm, and do appoint their procurators, in forma camere apostolicæ, to appear in their names at the court of Rome, before our holy father the pope, or the auditors of the Rota, and voluntarily to undergo the condemnation and fulmination of the said censures.'

These precautions were not thought sufficient, the princes never made a treaty without naming conservators, who were to see to the execution of the articles. These were sometimes only ministers, whose duty it was to confer together from time to time at a place appointed, to repair amicably the breaches of the treaties, to punish the transgressors, and to clear difficulties unforeseen or arising from ambiguous expressions. The custom of conservators, still practised at this day between the Ottoman Port and the neighbouring princes, was a wise regulation, especially at a time when the princes had no ordinary ambassadors at each others courts. Sometimes, but more rarely, the conservation of the peace in their governments, was in a special manner committed to the provincial governors. They judged sovereignly of all complaints brought to them on this subject, punished the transgressors, and repaired the injuries.

There was a third kind of conservators, who (to use the antique expression) gave their seal to the treaties, and engaged by a particular act to declare even against their sovereign, in case of some violation on his part, and to espouse the interests of his enemy. Not only the seal of the greatest lords of a state, but moreover the seal of the principal cities was

was required. Thus in the treaty of Senlis, the 23d of May 1493, the cities of Paris, Roan, Lyons, Poitiers, Tours, Angers, Orleans, Amiens, and Tournay, are named for Charles VIII; and the cities of Louvain, Brussels, Antwerp, Douay, Bois-le-Duc, Gant, Bruges, Lille, Arras, St. Omer, Mons, Valenciennes, Utrecht, Middelburg, and Namur, for the emperor Maximilian and the archduke Philip his son.

The lord of Bevrès, one of the conservators of the peace of Senlis, thus expresses himself in his seal: Be it known that we, desiring with all our power to obey my said lords (Maximilian and his son) considering the great benefits which, from the said peace and observance thereof, shall accrue to my said lords the king of the Romans and archduke, have promised and sworn, and do promise and swear by these presents, to keep and cause to be kept the said treaty in all and every of its points and articles. And that if it is transgressed by my said lords the king of the Romans and the archduke his son, or by any other for them, (which God of his goodness forbid) and restitution or reparation for the transgression be not made within six weeks after, we in that case shall be obliged to abandon my said lords, king of the Romans and archduke, and each of them, and shall give in that case favour, aid, and assistance, to the most Christian king.

It is in the treaty of Blois, the 12th of October 1505, that foreign princes are first named for conservators. It is said there, that Lewis XII, king of France, and Ferdinand king of Arragon, shall pray the king of England to be conservator of their treaty (e). This example was followed in the treaty which was concluded three months after at Cambray, between Lewis XII. and the emperor Maximilian.

It is agreed (say these princes) that the pope, the kings of England and Arragon, and the princes of the empire, shall be conservators of this treaty, that they shall see all the articles executed, and in case of contravention, they shall assist the injured party with all their forces (f).

(e) Rogabunt dicti Christianissimus et Catholicus reges serenissimum Angliæ regem, quod hujus pacis, fraternitatis et ligæ censervator existat.

(f) Conveniunt quod sanctissimus dominus noster, serenissimi quæ regis Angliæ et Arragoniæ ac etiam sacri Romani imperii principes sint hujus pa-

cis,



The treaties of Blois and Cambray are to be looked upon as the first model of the guarantees so common now-a-days. This method gained ground the more easily, as the princes had found by experience, that the most sacred, the most solemn oaths, were but weak fences against interest, which had always broke through them without scruple. Besides, by submitting themselves, in case of infraction, to excommunication and the censures of the church, (as Charles VII. of France, and Philip the Good, duke of Burgundy, say in the famous treaty of Arras) they degraded themselves, and furnished pretences to the ecclesiastical power, to intermeddle in the temporal concerns of the kings, and to confound rights which, for the welfare of nations, cannot be separated by bounds too settled or fixed.

The custom of conservators would have produced many disorders, if it had been any thing but a matter of form. The lords and burghers of cities would have been judges of war and peace, and, under the pretence of fulfilling their engagements, might have got the habit of never obeying their prince. All these customs disappeared according as the kings aggrandized their authority over their subjects, and policy tied them together with a stricter band (g).

*is, unionis et concordiae et singulorum in eis contentorum, conservatores et fide jussores et totis viribus assistent ei qui praedicta observaverit contra alium non observaturum.*

(g) It may rather be said, that, according as the kings aggrandized their power over their subjects, and policy bound them together with a stricter band, they forfeited honour and conscience; because they perceived themselves out of the reach of reproaches for the violation of a treaty or breach of their words. Often such a reproach has been the motive alledged for a declaration of war. In fine, things are come to that pass, that treaties are no longer to be relied on, than whilst circumstances remain in the same

state as when they were concluded. Neither oaths on the high altar, nor dread of the just vengeance of heaven, nor the point of honour, have seldom any influence on royal consciences. Convenience has usurped the place of honour and honesty. Recourse had been had to powerful guarantees; but to no purpose. The guarantee is a treaty, so is violated with the same ease as the treaty: it ought to establish Good-Faith, but is the first to destroy it. This is one of the pernicious effects which ambition has spread thro' the world, and which has increased in proportion as conscience has lost its power. The worst is, it is an evil which at present seems incurable.

C H A P.

## CHAPTER III.

**Particular Treaties concluded between the several Powers of Europe, from the Treaty of Munster to the Year 1701.**

**T**HE treaties collected under this head are all those which have no relation to the grand pacifications, and are not considerable enough to deserve singly a chapter apart.

**THE SWISS (h). THEIR ALLIES.**

The article that will be enlarged upon most, concerns the Helvetic Body. As the peace of Baden is to be spoken of, which ended the 7th of May 1655, the war between the cantons of Zurich and Bern, and those of Lucern, Ury, Schwitz, Unterwald, and Zug, it will be proper to give an account of the peace of Arau, the wise regulations whereof are capable of giving its full force to the ancient union of the Swiss.

There would have been no mention of their particular wars, nor of the treaties of peace by which they were ended, if the thirteen cantons by their union formed but one common-wealth, or if each, by virtue of the Helvetic constitutions and laws, was subject to a general diet, as the princes of the Germanic Body are to the diet of the empire. But it is well known that the Helvetic Body ought rather to be called the League than the Republic of the Swiss; and that the thirteen cantons form so many independent common-wealths. They are governed by very different principles;

(h) Or Switzers, so called from the canton of Switz, which does not give name to the rest by way of eminence, but because it was the first that asserted its liberty. The names of the thirteen cantons are, Zurich, Bern, Basil, Schaufhausen, (Protestants), Ury, Schwitz, Unterwald, Lucern, Zug, Friburg, Soleure or Solothurn, (Catholics), Glars, and Appenzel, (Protestants and Catholics).

each



each has all the rights of sovereignty, and treats at pleasure with foreign states (i); their general diet has no power to make regulations, or impose laws (k).

‘ So far (says the author of the state of Switzerland) are the thirteen cantons from making one body, that there are but the three most ancient cantons that are directly allied with each of the other twelve. Indeed there is such a connexion established among them, that if one canton was attacked, the other twelve would be obliged to march to its assistance; but it would be by the relation that two cantons may have with a third, and not by a direct alliance which each of the thirteen cantons has with all the rest. For example, among the eight ancient cantons, Lucern can call only five to its assistance, in case of an attack; but then some of the five have a right to call in others with which they are allied, though Lucern be not; so that, in fine, they are all obliged to march by virtue of their particular alliances, and not by virtue of a general alliance between all the cantons.’

Till the beginning of the thirteenth century, nothing was capable of breaking the union of the Switzers. Zuinglius in 1516 preached his new doctrines; they prevailed; and what could not be effected by ambition, jealousy, difference of interests, or a government founded on impolitic principles, was brought about by religious disputes. Animosity, mixing with these disputes, kindled a war, carried on with warmth, supported by obstinacy, and which ended not till 1531, leaving to each canton liberty to profess what religion they pleased.

‘ Before the change of religion (says the forementioned author) which happened in Switzerland about the same time as in Germany, there were none but general diets, and the common interest of their country was managed with great zeal and unanimity. But since some of the cantons have embraced the Protestant, and the rest adhered to the Catholic religion, their state has been divided as well as their church. From that time their mutual confidence

(i) Herein they differ from the United Provinces; but agree exactly with the princes and states of the empire, according to the fourth article of the capitulation of the present emperor, and the 6th of that of the emperor Charles VI.

(k) Nor have the States general of the United Provinces any such power, because each province preserves its rights of sovereignty.

‘ was lost; the zeal of each party for their religion bred  
 ‘ enmity, they became jealous of one another’s designs, and  
 ‘ the reformation may be said to split in two the Helvetic  
 ‘ Body. For as the interest of religion enters more or less  
 ‘ into all their public actions, the general diets assemble  
 ‘ now only to settle the affairs of their common bailiwicks,  
 ‘ and to preserve the external appearances of an union which  
 ‘ no longer exists: whereas in effect all the public affairs of  
 ‘ any importance are transacted in the particular diets of the  
 ‘ two religions, the Protestant diets meeting at Arau, and  
 ‘ the Catholic at Lucern. This canton being the most  
 ‘ powerful among them, acts at the head of the Catholics,  
 ‘ as Zurich does of the Protestants.’

About the end of the year 1655, some inhabitants of the canton of Schwitz having embraced the Protestant faith, had a mind to retire with their effects into the canton of Zurich. They were seized, and notwithstanding the remonstrances of the Protestants, and the protection they granted these fugitives, they were condemned and executed as Anabaptists. This was sufficient to kindle a war. The cantons of Zurich and Bern resolved to be revenged of the canton of Schwitz, which was supported by those of Lucern, Ury, Underwald, and Zug. France and the cantons of Basil, Friburg, Soleure, and Schafhausen, interposed their mediation; an accommodation was made and signed at Baden the 7th or eighth of March 1656.

It was agreed that each canton should enjoy its religion, independence, and rights of sovereignty; that the decision of all disputes, which should arise about any matter whatever, between the members of the Helvetic League, should be referred to arbitration. That there should be liberty of conscience in the provinces subject to the thirteen cantons; and as for what relates to the change of religion, and the liberty of going with their effects from one canton to another, each country should conform to its ancient usages and customs.

This was only to be a patched-up peace, since nothing in particular was settled concerning the cause of the disputes by which the union was broke. However, stipulations so indeterminate and improper to cure the troubles wherewith the Helvetic Body was threatened, served to maintain the peace till 1712, when the cantons of Zurich and Bern took up arms in favour of the Toggenburgers.



The abbot of St. Gall, relying on the cantons of Lucern, Uri, Schwitz, Unterwald, and Zug, who warmly espoused his interests, had oppressed for some time the county of Toggenburg. This prelate daily formed new pretensions on subjects who thought themselves almost independent. He proceeded at last to molest them in the exercise of their religion, and, in a moment, the wisdom and moderation for which the Helvetic body was so famous in Europe, was seen to vanish. All Switzerland was in arms; the forces assembled and marched; the Catholics were defeated at Bremgarten, and the first treaty of Arau was concluded the 18th of July 1712.

The public tranquillity would from thence forward have been restored, if one defeat had been capable to discourage the Switzers. The cantons of Unterwald, Schwitz, and Zug, refused to ratify the late peace. The war continued, and a second battle was fought at Wilmergue the 25th of July. The Catholics, entirely routed, had no other resource but to sign, the 9th of August, 1712, the second treaty of Arau, by which the first was confirmed, and the conquerors gained still more advantageous terms. But it was not till the 15th of June 1718, that the differences between the abbot of St. Gall and the count of Toggenburg were finally decided by the treaty of Baden.

Before the articles of this pacification are related, which is as famous in the Helvetic League, as the treaty of Munster is in Germany, it must be remarked, that the Switzers, unwilling to sacrifice their liberty to a desire of aggrandizing themselves, never interpose in the contests which arise between foreign powers. They observe an exact neutrality; are never guaranties of a treaty, and take no other advantage of the wars, by which Europe is often laid waste, than to lend indifferently soldiers to their allies, and to the princes who apply for them. The Switzers desire no more than the preservation of their laws. They inhabit a country which cannot raise the ambition of any of their neighbours; and it may be said, that they are strong enough to defend it against the joint forces of all Europe. Invincible when they are united, and when they are only defending the entrance into their country, the nature of their government will not allow them to make any progress abroad. Why then should they concern themselves with the quarrels of their neighbours? If they are tied by treaties of friendship with the Grisons, the Valais, Neuchatel, St. Gall, Geneva, Mulhausen,

hausen, &c. and consequently obliged to protect and defend them against the attacks of their enemies; it is because these small states cannot draw them into any troubles; because they have no ambition, because they respect their neighbours; and forming for the most part a barrier to cover them, it would be the interest of the Helvetic Body to assist them, though they were not bound to it by treaties.

The Swiss have alliances with the pope, the empire, the court of Turin, the house of Austria, the grand duke of Tuscany, &c. But these alliances are only for a certain term, and generally they are to last no longer than the reign of a prince, and the four or five first years of his successor. They are confined to capitulations about the levy of troops in the cantons, about their pay, their discipline, their privileges, and in general contain nothing interesting enough to find a place in this collection. It is not the same with the treaty of Bern, concluded in 1712 with the United-Provinces, nor with the engagements entered into by Lewis XIV, the last year of his reign, with the Catholic cantons, and the republic of Valais; and therefore they shall be mentioned after the treaties of Arau.

### PEACE OF ARAU.

1st. T. Ar.  
1.

‘The cantons of Zurich and Bern shall possess the county of Baden, with its dependencies, including the city of Bremgarten.’

Hitherto that county had belonged to the eight ancient cantons who conquered it in 1415, upon the house of Austria.

2d. T. Ar.  
2. 4.

‘All that part of the free bailiwick, commonly called Frey-Amtex, which extends in a strait line from Lunckhosen to Farwangen, shall be resigned to the said two cantons, saving however to Glaris all its rights, as not taking part in the late quarrel. The other part of the free bailiwicks shall remain with their old masters. The canton of Bern shall be associated to the co-sovereignty of the seven ancient cantons, and its turn of regency shall be next to that of Zurich.’

Frey-Amtex had been conquered by the seven ancient cantons upon the house of Austria, at the same time with the county of Paden.

Ibid. 4.

‘Zurich and Bern shall possess the city of Rappenswil, with its dependencies. Bern shall be admitted to the co-sove-



sovereignty over Turgovia, Rheintal, and the country of Sargans, and shall exercise its regency next after Zurich.

Turgovia and Rheintal had been conquered by the seven ancient cantons upon the house of Austria. Appenzel, when made a canton, was admitted into the co-sovereignty of Rheintal. The seven cantons had purchased the county of Sargans of the last count of that name.

Stein shall no longer be included in the sovereignty of Turgovia. The regency of that city shall belong to the Burghers, saving however the rights of the cantons of Bern, Friburg, and Soleure. 1st. T. Ar,  
1, 2.

The treaty of peace of 1531 is annulled, as if it had never been. The treaty of Arau shall for the future be a law to the cantons.

The cantons of Zurich and Bern promise to leave entire liberty of conscience to the inhabitants of the countries resigned to them; to nominate to the ecclesiastical dignities subjects taken by turns in the Catholic cantons who share the sovereignty, and to impose no new taxes. Those who shall remove into some other part of Switzerland, or into a foreign country, shall pay no duty of exportation or importation for two years.

In the provinces subject to cantons of different religions, the Protestants shall enjoy the same privileges as the Catholic; there shall be a perfect equality between them. Secret accusations and informations shall be abolished. Orphans shall have guardians of their own religion. One shall be called the Catholic, and the other the Evangelical religion; and it is equally forbid to the professors to use any injurious or ludicrous terms, when speaking of their respective religions. A malefactor condemned to die, shall be assisted by a minister of the religion he requires.

The Catholics and Protestants shall have their separate baptismal fonts and burying-grounds in the places where the church is common to both religions; the first who shall officiate, shall be obliged to leave the church at eight o'clock in the morning during the spring and the summer, and in the other seasons at nine, unless it be otherwise agreed. If either party desire to build a church for their use, they may do it at their expence. From that time they shall lose their right to the church they have left; it is allowed however to treat about the renunciation; that is to say, the Protestants, who, for example, intend to build a church, may impart their design to the Catholics, and

‘ and see what the others are willing to contribute towards  
 ‘ it, that they may have a church to themselves.

‘ The offices and magistracies shall be shared between per-  
 ‘ sons of both religions. The graffier of Turgovia shall be  
 ‘ Catholic, and the post of land-ammon in the same coun-  
 ‘ try shall be possessed by an Evangelical. The first magi-  
 ‘ stracy of Rheintal and Sargans shall be held by a Catholic,  
 ‘ and the second by a Protestant. The other officers, civil  
 ‘ and military, as bailiffs, judges, summoners, procurators,  
 ‘ advocates, &c. shall be half of one and half of the other  
 ‘ religion. All affairs concerning the regale and general  
 ‘ ordinances of the government, of the police and military,  
 ‘ shall be brought to the general assembly of the cantons,  
 ‘ who shall appoint an equal number of commissaries of both  
 ‘ religions to give a definitive sentence. In the general  
 ‘ diets, there shall be two secretaries, one a Catholic, the  
 ‘ other a Protestant; their registers shall be read in full as-  
 ‘ sembly, and shall be rendered alike.

‘ No fortress shall be raised in the common lordships;  
 ‘ and if the cantons come to wage war between them, nei-  
 ‘ ther of the contending parties shall solicit or compel the  
 ‘ common subjects to take up arms in their favour.

#### PEACE OF BADEN. ABBY OF ST. GALL. COUNTY OF TOGGENBURG.

T. Bad.

‘ The county of Toggenburg shall be subject to the  
 ‘ abby of St. Gall, but shall preserve all its ancient privi-  
 ‘ leges. The council of Toggenburg shall consist of thirty  
 ‘ Catholics and thirty Protestants, chosen by the inhabitants  
 ‘ themselves. They shall take care of the rights and in-  
 ‘ terests of the county. In case the abby and chapter of  
 ‘ St. Gall shall refuse them justice, they shall be allowed to  
 ‘ apply to their allies, and demand their protection. The  
 ‘ Toggenburgers shall freely profess the Catholic or reformed  
 ‘ religion, as they please. Each of the religions shall have  
 ‘ an equal number of magistrates of their communion. The  
 ‘ annual revenues of the county shall be divided in two parts,  
 ‘ of which one shall belong to St. Gall, the other to the  
 ‘ country.

CAN-



**CANTON OF LUCERN, PRINCIPALITY OF NEUCHÂTEL.**

The canton of Lucern receives into its co-citizenship the duke of Longueville, count of Neufchatel and Valengin, and also the country and inhabitants of these two counties, and promises to defend them against all violence whatsoever (a).

T. Lucern,  
Nov. 9,  
1695.

**CANTON OF BERN, UNITED-PROVINCES.**

The States-general of the United-Provinces, and the canton of Bern, mutually promise a strict and perpetual friendship.

T. Hague,  
June 21,  
1712.

The republic of Bern shall defend the United-Provinces, when their territories, or the barrier assigned them by the peace, shall be attacked. The States-general shall be allowed to employ the troops of this canton that they have in their pay, for the defence of all the British dominions in Europe.

I.  
Ibid. 2.

The canton of Bern shall leave to the States-general the twenty-four companies which are in their service; but if any foreign power attacks the said canton directly or indirectly, they may be recalled. If Bern is in war with some other canton, the States-general shall not be obliged to send back the said companies, but shall pay in that case a subsidy equivalent to the pay of those troops. They shall also pay the same subsidy, if Bern, when engaged in a foreign war, does not recall the twenty-four companies. In case they are recalled, the canton of Bern promises to send them back as soon as it shall be convenient. During peace, the United-Provinces may reduce each company to 150 men.

Ibid.  
4, 6, 7, 11.

Whenever the United-Provinces shall maintain a defensive war, the republic of Bern shall promise to levy four thousand men, and furnish recruits to keep them complete, unless the canton is at war itself, or have just cause to dread hostilities from some of its neighbours.

Ibid. 4.

(a) The general articles proposed by the states of Neufchatel and Valengin to the king of Prussia, when, after the death of the dukes of Nemours, his majesty took possession of that

state, and which his majesty accepted and ratified the 10th of August 1707, made not the least mention of this citizenship. Roussier.

Ibid.

5.

' The States-general ingage to defend the canton of Bern, the city of Geneva, the counties of Neuchâtel and Valengin, Bienne and Munsterthal, whenever they shall be attacked by any foreign power (b).

Ibid.

9, 10, 12.

' The twenty-four companies in pay of the States-general shall be given only to the burghers of the city of Bern, or the subjects of that canton. When the States-general shall make new levies in Bern, the canton shall name the captains.

Ibid.

17.

' These companies shall not be employed in prejudice to the treaties between the Helvetic Body and France and Austria. But as these treaties are purely defensive, Bern will not permit France or the house of Austria to use its subjects beyond the terms prescribed, or to employ them against the United-Provinces or their barrier.

' These troops in the pay of the States-general shall serve only by land. They shall not be transported beyond sea, except to Great-Britain when that kingdom is attacked.'

This last article belongs to the convention of the 5th of January 1714, signed at the Hague by the States-general and the canton of Bern. The rest of the articles concerning the discipline of the Swiss are not worth mentioning.

(b) That is to say, in the can, as count of Neuchâtel, said states, for it cannot be supposed that the king of Prussia, demand the assistance of the States-general, for example, attacked in Cleves,

## GRISONS (c). UNITED-PROVINCES.

T. Hague,

Aug. 19,

1713.

2, 3, 6.

' There shall be for ever a defensive league of friendship between the United-Provinces and the Grisons,

' The Grey-Leagues ingage to defend the possessions and barrier of the States-general, and agree that the Grisons in their pay shall be employed in defence of all the dominions of Great-Britain in Europe.

' The States-general shall always keep in their service six companies of Grisons, whose officers shall be permitted to

(c) The Grisons just entered into a league with one another in 1471, and with the Swissers in 1491. They are divided into three Leagues: 1. The Grey-League. 2. The League of the House of God. 3. The League of the Ten Jurisdictions. Their name is derived from their wearing Grey Scarfs when they first leagued together.

' raise



‘ raise the necessary recruits to complete them in the territories of the Grey-Leagues. If the Grisons are obliged to maintain a defensive war, the United-Provinces shall pay them a subsidy equivalent to the pay of the six companies. In this case, the Leagues may recall two thirds of the officers, if the States-general are in peace, and one third if in war. The six companies shall not be recalled at no time nor on any account.

‘ If the States-general are attacked, they shall raise two thousand men and recruits in the territories of the Grisons, unless they themselves are in war, or have reason to fear being attacked.

Ibid.

‘ The States-general promise to defend, on all occasions, the three Grison-Leagues, their country and their sovereignty. They accede to the treaty which the Leagues made with England the 13th of March 1707, and engage to use their good offices for the entire execution thereof.’

The treaty mentioned here was concluded at Coire by the emperor Joseph and queen Anne, with the Grisons. The Leagues had granted the imperial troops free passage through their lands, on certain conditions which the courts of Vienna and London were not very forward to perform.

‘ The six companies of Grisons in the pay of the United-Provinces, shall be conferred on subjects of the Leagues, and the States-general, in time of peace, may reduce them to 150 men each.’

Ibid.

7.

## CATHOLIC CANTONS. REPUBLIC OF THE VALAIS. FRANCE.

‘ All the treaties of Alliance concluded between France and the Helvetic Body shall be faithfully observed.’

T. Sol.

2.

The treaty of Soleure, of which this is the first article, was concluded by Lewis XIV. with the Catholic cantons and the republic of Valais, the 9th of March 1715.

‘ The alliance of Soleure is contracted in the name of all the kings of France, successors of Lewis XIV. They shall ratify it at their accession to the crown, and promise punctually to perform all the articles. The Catholic cantons and republic of the Valais, shall at the same time renew their promises. Then those things shall be provided for which shall not have been foreseen in this treaty; and the abuses redressed which the difference of times and circumstances may have produced in the observation of any article.

Ibid.

3.

Ibid.  
4.

‘ If the kingdom of France is attacked at home or from abroad, the Catholic cantons shall promise, six days after notice, to make a levy not exceeding sixteen thousand men. It shall be made at the expence of the most Christian king, who shall appoint the officers. These troops shall be employed only at land. As soon as the war shall be ended, France shall send them back, paying them to the day of their arrival at their own homes.

Ibid.

‘ If the Helvetic body, or any particular canton, is attacked by a foreign power, his most Christian majesty shall send proper succours. If troubled with intestine disturbances, he shall use his good offices to bring the parties to a just accommodation. But in case that method does not succeed, he shall employ all his forces without any subsidy, to compel the aggressor to observe the regulations prescribed by the alliances which the cantons have made.

Ibid.

20, 22.

‘ The king of France shall not permit his subjects to serve any power whatever against the Helvetic Body. On their part, the cantons or their subjects shall never act hostility against the king of France, either by attacking his armies or invading his dominions.

‘ If a successor of Lewis XIV. shall endeavour to retake the lands and demesns specified in the alliance concluded by Francis I. in 1521 with the Helvetic Body, the cantons shall refuse all assistance.’

The demesns mentioned here, are the states of Italy, to which the kings of France had pretensions, and which they have in vain tried to conquer by obstinate wars. These wars employed the reigns of Charles VIII, and his successors, to Henry II. Lewis XIV, after the example of his predecessors who have treated with the Swiss, styles himself, in the alliance of Soleure, duke of Milan, count of Asté, lord of Genoa, &c. The same titles had been assumed by him in the renewals of alliance of the 1st of June 1658, and the 4th of September 1663.

It may be asked whether the custom of assuming the titles of certain provinces which a prince does not possess, but to which he has pretensions, be equivalent to a protestation, and sufficient to hinder prescription. To this it may be answered; if a prince, who continues to take the title of a province of which he has been deprived, does nothing from whence it may be inferred that he authorises the usurpation of his enemy, there is no doubt that his title answers to a continual protestation. But if he contradicts himself by his conduct, the titles he assumes, can be of no force, and are con-



considered as the effect of his vanity. These titles signify nothing at present in Europe. It is said, Charles II. had a mind to sell his title of 'King of France' to Lewis XIV. but the French minister, to whom the offer was made, joyously replied, the king his master had also a title of 'King of Navarre', which he would sell a good bargain. It is customary in a treaty where one of the parties bears a title which the other cannot acknowledge, to insert a particular clause, by which it is agreed, that the titles assumed by one party shall not prejudice the other.

\* If the Swiss league with France to make war against a common enemy, the parties shall agree upon the military operations, and conclude in concert, treaties of truce, cessation of arms, and of peace. T. Ol. 23. 27.

\* Neither of the parties shall suffer the enemies of the other to remain in his dominions, or grant them passage or aid.

\* If France shall attack the holy see, the empire, the house of Austria, the lordship of Florence, or any other ally of the Helvetic body, the cantons and republic of the Valais shall not be obliged to assist. But in case the most Christian king is attacked by any of these powers, they shall furnish him with succours. Ibid, 34.

\* Both sides are obliged to give free passage to the troops that shall march for the defence of one of the parties, or for the assistance of any of their allies. Exact discipline shall be observed on the road, and the soldiers shall pay ready money for what they shall want. Ibid, 29, 30.

\* The alliance of the kings of France, as the most antient of the Helvetic body, shall be preferred to that of all other states.

## PEACE OF THE HAGUE.

### PORTUGAL, UNITED-PROVINCES.

\* The United-Provinces renounce all their pretensions to the Brasils, on condition, they shall be allowed to carry on there all sort of commerce, except of Brasil-wood, and to navigate and trade in all the ports, roads, harbours and places which belong to the Portuguese on the coast of Africa. T. Hague, 2, 3, 4.

\* The parties shall remain in possession of the towns, places, castles, &c. which they hold in the East-Indies or elsewhere, when the peace shall be published, each party renouncing all his pretensions. Ibid, 6.

This

This treaty of alliance between Portugal and the United-Provinces, was concluded at the Hague, the 6th of August 1661.

The United-Provinces had made themselves masters of Brasil and the East-Indies whilst Portugal was under the dominion of Spain. After the Portuguese had recovered their independence, they sought the friendship of the Dutch, who, in spite of treaties, continued the war underhand. The Portuguese seriously thought of a defence, and by their wise conduct entirely drove the Dutch out of their settlements in Brasil in 1657. The States-general then declared war against Portugal, and refused the mediation of France and of Cromwell in 1658. This war was ended by the abovementioned treaty, which will be spoken of more largely in the chapter of commerce. In the mean time, it must be observed, that it is said in the fourth article of this treaty, 'that if the king of Portugal breaks any of the conditions of the peace, the United-Provinces shall be possessed again of all the rights they renounce. Those of his Portuguese majesty shall also revive in case the States-general shall infringe any article of the treaty'

#### PEACE OF BREDA.

ENGLAND, UNITED-PROVINCES, FRANCE, DENMARK,  
Bishop of MUNSTER.

Nothing very considerable passed in the war which was ended at Breda the 31st of July, 1667, between England on one part, and France, Denmark, and the United-Provinces on the other. The hostilities had commenced two years before, on account of some forts which the English had taken on the coast of Guiney, and from which they were driven by the Dutch. The United-Provinces, faintly supported by allies who had unwillingly engaged in their quarrel, and especially by the king of France who wished to see an end of the war, very readily consented to an accommodation. This peace altered not the situation of the parties. All was restored that they had taken from each other during the war, and after the usual articles in all the treaties of peace, or such which relate only to the circumstances of the times, there were hardly any stipulations but what concerned commerce.

After the death of Charles I. Cromwell, who, under the title of Protector, was become absolute king of England, never



never failed to insert in all his treaties with foreign states, that they should not harbour within their dominions any rebel or public enemy of his government. At his accession to his father's throne, Charles II. followed Cromwell's example, and in the treaty of Breda, the States-general engaged not to receive into their dominions any such persons as should be declared his enemies.

All ships and vessels of the United-Provinces, as well T. Br. 9.  
men of war as merchant-ships, shall strike the flag and  
lower the sail when they meet any English men of war in  
the British seas.

Thirteen years before, Cromwell had obliged the Dutch to this salute by the treaty of Westminster of the 15th of April 1654.

The accommodation concluded between Charles II. and Frederic III. king of Denmark, contains two important articles. In the first, 'it is agreed, that the debt of 120,000 rixdollars contracted by the Danish king with the English company of merchants at Hamburgh, shall be remitted.' By the other, Frederic preserves his claims to the Orcades and the isle of Hitland, which the kings of Norway had formerly mortgaged to Scotland, on condition of redeeming them at pleasure. These articles are in the act signed by the ambassadors of Sweden and France at the congress of Breda.

The bishop of Munster took part in the quarrel between England and Holland. The prelate who then held that bishopric, was the famous Van-Galen, so noted for his military genius and qualities. Ever restless, always in action, peace was to him an unnatural state, and he was by turns enemy or ally of all the powers he could attack, or who enabled him to make war.

This bishop, to whom Charles II. had promised considerable subsidies, invaded the province of Over-Yssel, and, as if the very name of the United-Provinces had been to be extirpated, he began hostilities with ravages worthy of an Attila. He had made several conquests, when the Dutch took from him Lokon. This check, the slowness of England to send him succours, and the good offices of France, determined him to hearken to an agreement. His treaty of peace with Holland was concluded at Cleves the 18th of April, 1666. The emperor, Lewis XIV. the electors of Mentz, Cologne, and Brandenburg, the dukes of Newburg, Brunswic and Lunenburg, and the bishop of Paderborn, were guarantees.

Saving all the rights of the empire, the bishop of Munster T. Cleves.  
renounces all pretension of superiority over the city and castle  
of Borculoe.

PEACE

## A P P E N D I X.

## PEACE OF LISBON.

SPAIN, PORTUGAL.

This treaty ended the war between these two powers, which begun in 1640, at the time of the famous revolution in Portugal, the history of which is universally known. The Spaniards ceased not to treat the Portuguese as rebels, till they despaired of reducing them. France had in vain laboured a reconciliation between them at the congress of Munster and the Pyrennees.

T. Lis. 2.

Spain resigns to the house of Bragança, the kingdom of Portugal, acknowledges it independent, and reserves only the town of Ceuta.

The treaty, of which this is the second article, was signed at Lisbon, the 13th of February, 1668.

## PEACE OF AIX-LA-CHAPELLE.

FRANCE, SPAIN.

At the death of Philip IV. king of Spain, the 17th of September, 1665, Lewis XIV. pretended that his queen had a right to Brabant, the Cambresis, the Duchies of Luxemburg, Namur, &c. by virtue of the laws in these countries with regard to successions. The king of France sent his demands to his Catholic majesty, who rejected them with disdain. During the year and half that he refused to listen to a negotiation, he imprudently neglected to put the Netherlands in a state of defence. Lewis XIV. invaded them about the end of May 1667. His conquests were rapid; Tournay and Oudenarde held out but two days, Douay three, Lisle nine. Holland was alarmed, and, with England and Sweden, concluded, the 23d of January 1668, an alliance, commonly called the Triple League. They offered their mediation, and, in case the king of France shall refuse to accept of the peace concerted by this treaty, England and Holland shall be obliged to make war against France till things be reduced to the condition they were in at the Pyrenean treaty.

Triple  
League.

As the Triple League did not answer the intended purpose, the result of it was another treaty, concluded at Aix-la-Chapelle the 2d of May following, which, instead of retrieving what was lost, confirmed Lewis in the greatest part of his conquests.

T. Aix.

3. 4. 8.

Spain yields to France the cities and places of Binck, Charleroy, Aeth, Douay, fort Scarpe, Tournay, Oudenarde, Lisle, Armentiers, Courtray, Bergues, and Furnes, with all their dependencies.

PEACE



# A P P E N D I X.

## PEACE OF VERSAILLES.

### FRANCE, GENOA.

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The republic of Genoa, about the end of the year 1683, incurred the displeasure of France. The Genoese were accused of hurting several branches of the French trade in Italy, of declaring indecently and on all occasions in favour of the Spaniards, and of plotting with them to burn the galleys and ships in the ports of Marseilles and Toulon. The marquis of Seignelay, charged with requiring satisfaction for these grievances, appeared before Genoa the 17th of May 1684, with a large squadron. He offered peace to the Genoese, and threatened to bombard them in case of refusal. The senate was obstinate, and endured a severe bombardment. The ducal palace was burnt, with many others of the noblest in the city. They would not have attempted to resist France, had not the large possessions of their nobles in the kingdom of Naples induced them to keep fair with Spain. The peace was concluded between France and Genoa at Versailles, the 12th of February 1685, the doge and four senators having been obliged to come to the French court and make their submission.

‘The lordship of Genoa renounces the treaties of league and association made since the beginning of 1683, and shall disarm their galleys.’ T. Ver. 3, 4

It is needless to mention what relates to the house of Fiesque; but the second article of this treaty must not be passed over in silence. It is of importance, as it derogates from the fundamental laws of the republic of Genoa.

‘The doge and the four senators which shall repair to the court of France, shall be restored at their return to Genoa to the exercise of their posts and dignities, and none shall be put into their places during their absence or after their return, unless the usual time of their office be expired.’

In 1672, there arose some differences between Genoa and the duke of Savoy, about their respective limits. The mediation of the king of France suspended the first hostilities, and the peace was signed at Turin the 8th of March 1675. Nothing more is said of this treaty, as it caused no alteration in the affairs of the parties.

### ACCOMMODATION OF PISA.

HOLY SEE, FRANCE, House of FARNEZE, MODENA,  
CORSICA.

‘The Corsicans shall be declared incapable to serve in T. Pisa, Rome, and in all the ecclesiastical state.’

The

Aug. 20.  
1662.

The treaty of Pifa, signed the 17th of February 1664, ended the quarrels between the court of France and the pope, on account of an insult on the duke de Crequy by the Corsican guard (d).

When this unhappy affair fell out, the two powers incensed against one another had not forgot their disputes about the immunities. France required a satisfaction the more authentic, as the pope seemed to countenance the insult of the guard, and to submit rather thro' fear than thro' justice. The 13th article of the treaty of Pifa, concerns the famous pyramid which Lewis XIV. suffered to be demolished in 1667, under the pontificate of Clement IX.

T. Pifa, 1.

' The pope shall revoke the incameration of the duchies of Castro and Roneiglione. The duke of Parma shall take possession of them, paying to the apostolical chamber the sum he owes it, of a million three hundred twenty-nine thousand seven hundred and fifty crowns. This sum shall be delivered by two equal payments, and within the space of eight years. On the first payment the duke of parma shall take possession of one half of these states (e).

This

(d) The French in foreign countries relying on the power of their monarch are often very insolent: This occasioned the insult of the Corsicans on the servants of the duke and duchess of Crequy, Aug. 20, 1622, As it is known that don Mario Chigi, brother of pope Alexander VII. and general of the ecclesiastical state, had exasperated the Corsicans by threatening to break those who suffered themselves to be insulted by any Frenchman; it is not doubted that his holiness was concerned in the affair, and as the duke of Crequy could not obtain satisfaction, he left Rome with all the great men adherents to France. The king, who was before displeased with the pope, who had refused to agree with the dukes of Parma and Modena, took Avignon, and declared war against the pope, whom he treated much in the same manner as he afterwards did the Ge-

noese in 1684; for his holiness was obliged to send his nephew, with the character of Legate into France, where he pronounced, at the foot of the throne, a speech the most submissive and mortifying, such as the pride of that monarch had dictated, and which may be seen in the treaty itself in Part. III. Tom. VI. of the diplomatic body p. 2. Of the 15 Articles, only those directly relating to his most Christian majesty were performed.

(e) The history of this Incameration or re-union to the ecclesiastical state, of which these duchies were fiefs, is very curious, but too long to be inserted here. The ambition of the Barberinis, nephews of Urban VIII. was the rise of it in 1626, and the Incameration was made in 1646, under Innocent X. on pretence that duke Ranuco, son and successor of Odoardo, who had these disputes with the Bar-



This article was never executed. The court of Rome having been reconciled to France, constantly refused to resign these duchies, and the house of Farnese, too weak to compel the pope to perform his engagements, was satisfied with protesting against the injustice done them. This affair might have had a different issue, had not Don Carlos, who inherited all the rights of the house of Farnese, given up by the treaty of Vicara in 1738, the duchy of Parma to the emperor Charles VI, who engaged not to prosecute the disinclination of Castro and Roniglione.

‘The pope shall indemnify the duke of Modena for his pretensions to the place and the vallies of Comachio.’

Ibid.  
2.

This convention has been no better executed than the foregoing; but the rights of the house of Esté have not been weakened by any after-act.

## RENUNCIATIONS.

### HOUSE OF ORLEANS. HOUSE OF SAVOY.

In the contract of marriage of Anne of Orleans with Victor Amadeus duke of Savoy, is the following article:

‘Anne of Orleans, daughter of Philip of France, duke of Art. 5.  
Orleans, and of Henrietta of England, renounces all  
rights which may belong or fall to her on her father’s side.’

### HOUSE OF SAVOY. HOUSE OF BAVARIA.

In the contract of marriage of Adelaïd of Savoy with Ferdinand elector of Bavaria, the 4th of December 1650, is this article:

‘Adelaïd of Savoy, marrying Ferdinand of Bavaria, renounces all her rights, saving a portion of two hundred thousand gold crowns; but if the posterity of her brother Charles-Emanuel II, duke of Savoy, comes to fail, this renunciation shall be null, and Adelaïd or her descendants shall be restored to all her rights.’

### HOUSE OF BAVARIA. FRANCE.

In the contract of marriage of the princess of Bavaria with the Dauphin of France, signed at Munich the 30th of December 1679, is the following renunciation:

berinis, had not paid to the his father and he owed them.  
mounts of piety that sum which

‘Maria-

Art. 2.

‘ Maria-Anna-Christina, electoral princess of Bavaria,  
 ‘ and wife of Lewis Dauphin of France, son of Lewis XIV;  
 ‘ makes a full and general renunciation in favour of the  
 ‘ princes of her house, of all rights that may belong to her  
 ‘ by her birth.’

## ACQUISITIONS. CONCESSIONS.

## FRANCE. HOUSE OF BOUILLON.

In a contract passed at Paris the 20th of March 1651, is the following article :

‘ In exchange of the sovereignties of Sedan, Rancourt,  
 ‘ and of part of the duchy of Bouillon, which the duke of that  
 ‘ name possesses, the king of France gives him the duchies  
 ‘ of Albert and Chateau-Thierry, the counties of Auvergne  
 ‘ and Evreux, &c.’

## UNITED-PROVINCES. TEUTONIC-ORDER.

In the treaty of the Hague the 14th of June 1662, between the archduke Leopold, as grand master of the Teutonic Order, and the States-general, is this article :

‘ The States-general of the United-Provinces resign to  
 ‘ the Teutonic Order the sovereignty of the place and territory of Gemert, for forty thousand Florins, and on condition that the civil jurisdiction of that place shall remain to the city of Bois-le-Duc.’

## FRANCE. ENGLAND.

By a treaty concluded at London the 27th of October 1662, it was agreed :

‘ The town of Dunkirk, with all its fortifications and dependencies, the fort of Mardyke, the wooden fort, and the great and small forts between Dunkirk and Berg St. Vinox shall be delivered to the most Christian king, upon his paying five millions of livres Tournois to Charles II. king of England.’

1658. Cardinal Mazarine having formed the project of conquering the Spanish Netherlands, made a treaty with Cromwell, by an article of which Dunkirk was to remain in the hands of the English, when taken from the Spaniards. The cardinal's politics were greatly blamed, and very justly. It is visible,



nable, how detrimental it was to the French for England to be possessed, on their frontiers, of a place of such importance. Mazarine alledged in his justification, that Cromwell was to be gained, which nothing could effect but the cession of Dunkirk. Possibly he was in the wrong; it was the protector's interest to declare against Spain; if he seemed not to know it, 'twas only an artifice to sell the dearer his alliance and succours to the enemies of the court of Madrid. The cardinal was here over-reached, who was always inclined to believe what he feared (a).

(a) If the cardinal was condemned for giving up Dunkirk to the English, what must we say of king Charles II, who wantonly sold so important a place to the French for a little ready money?

SWEDEN. UNITED-PROVINCES.

'The king of Sweden and the Swedish African company renounce all their pretensions to Cabo-Corfo, and transfer to the Dutch East-India company all their rights to that place, and to their other establishments on the coast of Guiney.'

T. Hague.  
1667.  
5.

This treaty was concluded at the Hague the 28th of July 1667, to put a stop to the hostilities which the trading companies of Sweden and Holland began to commit against one another. The Swedes demanded some arrears of subsidies, which they pretended were due from the United-Provinces. The Dutch, on their side, complained that Sweden had not furnished all the succours agreed upon by former treaties.

Ibid.  
7, 8.

HOUSE OF BRANDENBURG. UNITED-PROVINCES.

'Frederic-William, elector of Brandenburg, resigns in full property to the States-general the fort of Schenk (b).'

This is the second article of the treaty between these two powers, concluded at Cologne on the Spree the 8th of March 1678.

(b) It should have been added, 'with the sovereignty of the territory where the fort was built in 1586, at the time when the dukes of Gueldres and Cleves were disputing about the bounds of their dominions, of which the territory where Schenk was built, was part.'

## A P P E N D I X.

## FRANCE. STRASBURG.

The pretor, consuls and magistrates of Strasburg, and the city, acknowledge the king of France for their sovereign lord and protector.

This act of 1681, between Lewis XIV. and the magistrates of Strasburg, of itself invalid, has since been ratified at the peace of Ryswic by the general diet of the empire.

## FRANCE. SPAIN.

The subjects of France and Spain shall freely navigate and fish in the river Bidasson and in the road of Figuer. The French shall be allowed to come near Fontarabia, and the Spaniards near Andaye, provided they are not armed or have obtained leave to be so of the governors of these places.

This convention was signed at Madrid the 19th of October 1683.

## HOUSE OF SAVOY. UNITED PROVINCES.

Victor-Amadeus, duke of Savoy, re-establishes the Vaudois, of the pretended reformed religion, in the possession of all their goods, and grants them the free exercise of their worship, and also to all other his subjects who shall retire and settle in the valleys of the Vaudois.

By this treaty made at the Hague the 20th of October 1690, the duke of Savoy acceded to the treaty which was concluded at Vienna the 12th of May 1689, between the emperor and the United-Provinces, and which was afterwards called the Grand Alliance, because all the enemies of France came into it.

## ALLIANCES. GUARANTEES.

## POLAND. DENMARK.

The kings of Denmark and Poland form a perpetual alliance, and promise to assist each other with all their forces, when either shall be attacked by Sweden. They promise, when they have once taken up arms, not to make a separate peace.

In consequence of this treaty of Aftmen, the 28th of July 1657, Denmark assisted Poland during the war with Gustavus-Adolphus, which was ended by the peace of Oliva.

Some politicians blame these kinds of alliances which are made for no limited time. They justly observe that from thence, there



there arises an engagement which may be detrimental to one of the parties when his circumstances are altered, or hinder him often from taking advantages which the ever fluctuating course of affairs offer him (c). If the great states should not make perpetual alliances, it is not the same with lesser states, whose true interest it is to consult their own preservation, by putting themselves under the protection of a powerful neighbour.

The clause by which two allies promise not to make peace but in concert, has its limitations. 'It would not be just (says the author upon the principles of law and morality) that the tranquillity of all the confederate states should absolutely depend upon a single ally who should obstinately refuse reasonable overtures of peace. Let us try to fix these limitations as the law of nations requires.'

A prince who is willing to negotiate a peace, ought not to conclude any thing with the common enemy, without the knowledge of his allies, and without having himself declared that he will not leave them, unless they reject proposals reasonable on the whole. He ought to act sincerely according to this declaration; so that as long as his allies do not perversely reject such propositions, the execution whereof ought to be considered as a just result of the war, he should not make his separate peace.'

These reflections are very just, and ought to regulate the conduct of princes, who, joining in a league, are not agreed on the objects they propose by the war. But when they covenant not to lay down their arms till such or such satisfaction is obtained; the thesis is changed, and the articles agreed on being then considered as the just result of the war, ought to be performed before any of the allies can make his separate peace; unless he is certain that his confederates will be before-hand with him, or is threatened with ruin by continuing the war. Every confederate prince, who, except in these two cases, listens to any separate agreement, his contract is inva-

(c) This reasoning, extreme, tained, that "a prince is a ly just in itself, held good in "fool who keeps his word those happy times when sincerity "when it is no longer his was not yet banished, when the "interest." And that "he French distinction of the spirit "ought to break the treaty and letter of a treaty was un- "when the circumstances which known, or when the diabolical "occasioned it are changed." political thens was not yet main-

lia (d). He may consequently break his engagements, provided, he returns to the same situation he was in when his contract was made. To conclude, every ally that treats separately, should have the prudence to stipulate that his private conventions shall be included in the final treaties of the general peace.

### FRANCE, NEUFCHÂTEL.

There shall be perpetual alliance and friendship between the crown of France and the sovereignty of Neufchatel and Valengin (e). The most Christian king shall at pleasure raise levies of men in those two countries, after notice given to the sovereign. All those that are willing to enter into the service of France, shall be free to do it. Their prince shall not recall them till he is attacked; and in that case his subjects shall not withdraw without leave, which shall always be granted. They shall have the same pay as the Swiss; and throughout the kingdom they shall enjoy the

(d) This is what may justly be said of queen Anne's separate peace with Lewis XIV. in 1712. Since the end of the war, which was not to leave Spain and the Indies in the house of Bourbon, was not accomplished. The emperor Charles VI. said the ministers who made the peace, would be too powerful if he possessed all the dominions of the house of Austria with the empire. They might be in the right; but was there no medium? could not the crown of Spain be placed on the head of a prince who could give no umbrage to the two houses, as the prince of Bavaria? The same may be said of the separate peace which Charles VI. made with the Turks at Belgrade, without including the Russians, who were forced to renounce the advantages they could reap from the

great conquests they had made to the mouth of the Boristhenes, and from thence beyond the Niester into Moldavia. But the king of France, who had kindled the war to weaken both the emperor and the Russians, omitted nothing to ingage the emperor to make his peace when fortune had turned against him, before the rapid progress of count Munich had drawn him out of his ill situation, so that he purchased peace with the cession of Belgrade and the kingdom of Servia. Roussset.

(e) Roussset observes this alliance was not perpetual, and remarks, that these sovereignties have their states like Holland, Languedoc, Bretagne, and that there is a difference between contracting with these sovereignties or with their sovereigns.



privileges granted, or to be granted, to the cantons of the Helvetic body. The inhabitants of Neufchatel and Valengin shall not serve directly nor indirectly against the king of France. Their courts shall refuse passage to his enemies, and grant it to all the troops in the pay of France. Two companies of the Swiss guards of the most Christian king shall be commanded by officers natives of these two counties or derived from thence.

This treaty was concluded at Paris the 12th of December 1657, between Lewis XIV. and the duke of Longueville, prince and sovereign of Neufchatel and Valengin.

ENGLAND, UNITED-PROVINCES.

If any prince or state whatever shall invade the dominions of the king of Great-Britain, or commit any hostilities against him, the States-general shall assist him, within six months after they are demanded, with forty men of war, fourteen of them to carry from 60 to 80 guns and 400 men each; fourteen more from 50 to 60 guns and at least 300 men each; and none of the remaining twelve less than 36 guns and 150 men; and, besides, with 6000 foot and 400 horse. Three years after the expiration of the war, during which the States-general shall furnish these aids, the charges shall be refunded by England. To prevent disputes on this head, the charges of the first fourteen ships are fixed at 18,666 l. sterling; the other fourteen at 14000 l. sterling; and the rest are valued at 6000 l. The charge of the 6000 foot shall be 7500 l. and of the 400 horse, 1640 l. for every month; but for the first month there shall be 6000 l. paid over and above, for the foot, that being necessary for their levying and arming.

The king obliges himself in the same manner and in the same proportions, to assist the Dutch against any enemy.

The auxiliary troops and ships on either side shall be under the command of the party attacked or injured.

This treaty, made at the Hague the 23d of January 1668, deserved mention, though it was never executed, and was even superseded by the alliance between Charles II. and the States-general, concluded the 3d of March 1678, of which an account will be given in the next chapter.

It is customary to agree in the treaties of alliance, that one of the parties shall assist the other when attacked in any of his dominions. Many condemn this manner of stipulation, and think it wrong, in that it may engage a state in an unjust quarrel, and change a defensive into an offensive league; for it daily happens, that a prince who is attacked, the first by way of arms, is however the aggressor; either because he has refused a reasonable satisfaction for some injury, or because he will not relinquit what he unjustly detains.

It is easy to answer these objections. So far is a prince from being bound to assist an ally who has made himself enemies by his ill conduct, that he is not to side with him. Hence it is plain, the other objection falls of itself, and it is not to be feared that a defensive alliance will be changed into an offensive. Indeed, in doubtful cases, where both parties seem to have right on their side, the interests of an ally are to be defended; and it must be confessed, morality cannot disapprove of such a conduct.

It appears reasonable to stipulate as is usually done; for when a defensive league is formed, the question being to set forth precisely and clearly the case of the alliance, a fixed, certain, and indisputable point must be determined. And what other point can be chosen but an act of hostility? Any other grievance whatsoever, that shall be taken for the case of the alliance, may form an inexhaustible fountain of complaints, disputes, and contentions. Treaties of defensive alliance, which are so advantageous to nations, would become useless, because their force would be easily eluded.

In following the usual method of treating, the public tranquillity is secured. A prince who knows that the beginning of hostilities will draw upon him the forces of the allies of his enemy, will not be so apt to come to an open rupture. He curbs his passions; tries all amicable ways, and forgets nothing to show the justice of his own, and the injustice of his adversary's cause. Any custom proper to enlarge the empire of reason and good-faith among men, ought to be readily adopted, though in certain cases it may be liable to some inconveniencies.

Formerly they were very careful to covenant in defensive alliances that the promised aid should not be given till two, three, or even four months after its being demanded; and this interval was to be implied in reconciling the contending parties. Our modern plenipotentiaries have neglected these important clauses; there is scarce any mention of the interposition of good offices and mediation, which must be prejudicial to the tranquillity of Europe.



It is customary to agree in the treaties of alliance, that one of the parties shall assist the other when attacked in any of his dominions.

**ENGLAND, DENMARK.**  
There shall be perpetual alliance and friendship between the kings of England and Denmark, and each king promises not to supply the enemies of the other with military stores, &c. If the king of Denmark's dominions are invaded, the king of England will assist him with all his forces.

In this treaty of Westminster 1669, between England and Denmark, it is not said that Denmark shall assist England in case of an invasion.

**DENMARK, UNITED-PROVINCES.**

If any power attacks the dominions of his Danish majesty in Europe, the United-Provinces shall send him, at their expence, and within two months after demand, such succours as shall be judged necessary for his defence. If the first aid be not sufficient, the United-Provinces shall act with all their forces and declare war against the aggressor, without requiring any thing of the king of Denmark for the charge of the war. Art. 1, 2.

If the States-general are in the same case, the king of Denmark shall send them, within two months after demand, an aid of forty ships of war, and ten thousand land forces. The United-Provinces shall pay a subsidy of 600,000 rixdollars for equipping and maintaining the ships; 100,000 rixdollars for the levy of the land forces, and 40,245 rixdollars every month for their subsistence. If they shall want any farther assistance, the king of Denmark shall provide twenty thousand land forces, and the States-general shall double their subsidies. In fine, the king of Denmark shall be obliged, if circumstances require it, to act with all his forces and declare war. Art. 3.

The operations of the war shall be concerted by the generals of both parties, and neither of them shall be free to enter into treaty, to conclude truce or peace without the consent of the other. Art. 5.

This treaty of alliance between Christian V. and the United-Provinces, was concluded at Copenhagen the 20th of May 1673. (f).

**FRANCE**

(f) This treaty was made stipulated in the 12th article, that when the United-Provinces were his Danish majesty should not be invaded by France, and it was interpose in that war. In 1674

## FRANCE, SWEDEN.

Art. 20.

There shall be a perpetual (g) alliance between the kings of France and Sweden, for the maintenance of the treaties of Westphalia. If one of the parties is attacked contrary to the regulations of that peace, the other shall assist with all her forces.

This treaty of Versailles the 25th of April 1675, between Lewis XIV. and Charles XI. is but a sequel of that of 1672, concluded, in appearance, for the maintenance of the treaties of Westphalia, but in reality the king of France had solicited it only to engage the king of Sweden to renounce his alliance with the king of Spain, for whose service his Swedish majesty was to hold in readiness an army, in case France attacked any of the Spanish dominions. Besides that, the chief aim of the king of France was to draw the king of Sweden to his side in the war he was then meditating to chastize the Hollanders for being unwilling to have him for a neighbour. And therefore to the defensive treaty of 1672, were added thirteen separate articles, which run upon the measures to be taken against the United-Provinces. This treaty of Versailles was concluded by messieurs Pomponne and Spar, to confirm the separate articles of that of 1672, in order to engage the king of Sweden to send an army into the empire against the princes who had declared in favour of the Dutch, particularly against the elector of Brandenburg. The Swedish arms were unsuccessful, and Charles XI. lost all his German dominions; but Lewis XIV. was so generous to sacrifice the greatest part of his conquests, to recover, for his ally, at Nimeguen, the provinces which his subjects could not defend. These treaties of 1672 and 1675 are the foundation of the friendship and good-intelligence that has since subsisted between the two crowns.

the king of Denmark made another defensive alliance with the emperor Leopold, the King of Spain, and the States-general, which took the place of this, and which, pursuant to a separate article, was to last 14 years.

It is in the same style with this of 1672.

(g) It is perpetual only in what concerns the peace of Westphalia, in the other articles not.



POLAND. HOUSE OF AUSTRIA.

‘ Of what nature soever may be the differences that shall arise between the house of Austria and the republic of Poland, they shall always be amicably decided. Each of the parties shall be allowed to raise levies of men in the other’s dominions, upon previous notice, if the other is not in war.’

This treaty was made at Vienna the 24th of April 1677, between Leopold as head of the house of Austria, and John III. king of Poland.

The grand seignor making preparations which threatened Christendom, the same princes signed at Warsaw, the 31st of March 1683, a treaty of perpetual alliance, offensive and defensive, against the Turk. They desired the guarantee of the Holy See, and promised to swear, by the cardinals Pío and Barberini, before the pope, the full observance of all the articles therein agreed on.

‘ The emperor Leopold renounces whatever is due to him from the king of Poland for the money lent to Charles-Gustavus during the war. In a word, the two parties annul all the pretensions which they may have upon one another, by virtue of any former compact or agreement.’

HOUSE OF AUSTRIA. STATES OF TRANSYLVANIA.

The emperor Leopold, and the states of the principality of Transylvania, concluded at Vienna, the 28th of June 1686, a treaty which deserves notice, and which, four months after, on the 27th of October the same year, was confirmed by another act passed in the imperial camp near Balasfalva. In these two treaties are the following articles:

‘ Leopold engages to defend Transylvania and the territories of Hungary thereunto annexed, whenever he shall be required. The prince of Transylvania shall command in chief the succours that shall be sent from the court of Vienna.’

‘ The emperor declares that he pretends to no right to Transylvania nor its territories, that he will never take the titles or marks of honour, or concern himself in any manner with its civil or ecclesiastical government.

‘ The states of Transylvania shall enjoy the liberty of electing a sovereign, according to their ancient customs and

- and privileges. Their prince shall at his pleasure make
- alliances and form leagues, provided they no way prejudice
- the treaty of Vienna, which is to be perpetual.
- The princes of Transylvania shall not harbour the ene-
- mies of the house of Austria, nor shall the house of Austria
- give an asylum to the enemies of the princes and states of
- Transylvania.

## C H A P. IV.

### The Peace of Nimeguen, with the Treaties relating thereto.

**B**EFORE we proceed to the treaty of Nimeguen, it will not be improper briefly to take a view of the situation of the most considerable powers from the peace of Munster in 1648 to the war of 1672, and to show what were their political principles before and after that famous war.

Never was France more powerful than from the treaty of Westphalia to the war with Holland. Her forces were superior to those of any of her neighbours, and circumstances did not suffer them to unite against her. By the restoration of the ancient laws of the empire, Ferdinand III. had been deprived of great part of his authority. The diets were free; the German princes had thrown off the yoke; and conceiving a balance of power between the head and members of the Germanic body, was the basis of their liberty, they contracted alliances with the neighbouring princes, who could assist them with forces, and make them respected by the emperor.

The liberty of the empire was a rampart for France, and Ferdinand, bound by all the treaties which preceded the conclusion of the league of the Rhine, durst not give any assistance to the Spaniard in his war with France, after the peace of Westphalia. Every thing declared the weakness of the Spanish monarch; he had been obliged to acknowledge the independency of the United-Provinces; his fruitless attempts to subdue Portugal, plainly showed he would, in the end, be forced to relinquish that kingdom to the house of Bragança, and with it lose all its possessions in the Indies and America. Whether the ancient reputation of Spain prevented its decay from being seen, or whether there remained in mens minds the impression of the dangers wherewith the house



house of Austria had threatened their neighbours, Philip IV. found no ally, and Europe beheld, without emotion, the advantages of the French.

The United Provinces, since so justly alarmed about the fate of the Netherlands, thought then of little else but improving the advantages of peace, by enlarging their commerce. The magistrates had not yet resolved on their course with respect to the neighbouring powers. Some adhered to the famous treaty of Paris, the 8th of February 1635, which left them all the Low-Countries, except Flanders, Artois, Luxemburg, Namur, and Hainault, which France was to enjoy; and they beheld with concern the Spaniards so near them. Others were satisfied with condemning the separate peace at Munster, and believed that, after their deserting of France, there was no protection to be expected from thence. These dreaded the French, and were for entering into leagues and confederacies against them. The others exhorted the United Provinces to keep within themselves and defend their possessions. Amidst this diversity of sentiments so usual to common-wealths and new states, it was next to impossible that a decisive resolution should be taken.

On the other hand the English, who since the reign of queen Elizabeth had not concerned themselves with the affairs of Europe, began, it is true, to look abroad after the death of Charles I. but in such a manner, as gave the French no uneasiness. Cromwell, who in some measure effaced, by the prudence of his government, the infamy of his usurpation, knew not the political maxims afterwards espoused by king William and his successors. He did not care which was the most powerful, France or the house of Austria. He only sought to enrich the nation he had enslaved. He looked with an ill eye upon the Dutch, whose trade was then very flourishing; and, far from assisting the Spaniards, he could not but take advantage of their distress to extend the commerce of England. Pursuant to these views, Cromwell made it his business to disturb the States-general, and, without loving France, declared against the Spaniards, and took from them Jamaica and Dunkirk.

It was so much the more difficult that any other leagues should be formed, as the war, kindled in the north in 1655, divided the attention of all Europe. The treaties of Oliva and Copenhagen, by which it was ended, gained Sweden the same reputation as France acquired after the peace of the Pyrenees. Russia acted no part. Poland, which may be

compared to a giant in chains, was not yet ruled by a Sobieski, who, in spite of the faults in the constitution, could perform great things. The Danes, in a state of humiliation, had a quick sense of their losses; they had roused their old antipathy to Sweden, but without resource at home, and without alliance abroad, they were forced to conceal their resentment. In a word, the emperor having tried in vain to avenge himself of the treaty of Osnabrug, had the vexation and shame to see all its regulations confirmed by the treaty of Oliva.

The king of France resolved to avail himself of the happy circumstances his kingdom was in, to revenge the injuries done him by the Spaniards, and the evils caused by their intrigues ever since the reign of Charles V. Lewis XIV. carried his arms into the Netherlands in 1667, on pretence of asserting the rights of his queen after the death of Philip IV. The success of his arms was rapid, Charleroi, Bergues, Furnes, Aeth, Tournay, Douai, fort Scarpe, Oudenard, and Lille, surrendered without resistance. The United-Provinces were in the utmost consternation, and the Triple Alliance between England, Sweden, and the Dutch, was signed the 28th of January 1668. These three powers mutually promised to unite their forces to compel France to make peace.

Lewis was discouraged by this rising storm, and a peace was soon concluded at Aix-la-Chapelle. But it is a question worthy the discussion of the politicians, whether Lewis, in spite of the Triple League, should not have continued the war. He would probably have conquered the Netherlands before the allies could take the field. The United-Provinces were in no better a situation than they were a few years after in 1672. The Dutch, as Sir William Temple observes, had totally neglected the military part of their government, nay, had degraded it, in breaking, by a mistaken policy, the veteran troops to whom they were indebted for their fortune. Their land-forces were then in a state so much the worse, as during their war with England, which was just concluded at Breda, they had given their whole attention to their fleets.

England, it is true, was a more formidable enemy; but Cromwell no longer ruled there. Charles II. had mounted the throne of his ancestors; with many valuable qualities, this prince had none of a great king. Fond of pleasure and quiet, he was induced to sign the Triple alliance, from a persuasion that it would give law to France; and probably

he



he did not consent to it, but from the same motive of indolence which would have hindered him from performing the conditions, if it had not produced the desired effect. King Charles was neither a good friend nor a dangerous enemy, and consequently was hardly worth courting. He was always sure to be gained by means of some intriguing minister or greedy mistress, or ambitious favourite. Besides, the English and Dutch were but just reconciled; and instead of thinking themselves mutually necessary, they still entertained against one another the hatred of rivals. Their commerce was alike flourishing; the English would not suffer equals in the empire of the sea, and the Dutch refused to acknowledge a superior.

As to the Swedes, it is still more difficult to think that their alliance with England and Holland was sincere. What interest could they have in arming against France? They are too distant to fear her grandeur, and her friendship is too advantageous for them to think of weakening her power. After all, it was easy to render abortive their ill intentions, by stirring up Denmark and the princes of Lower Saxony against them; for though the French and Swedes shared the honour of being protectors of the Germanic body, they were looked upon in the empire in a very different light. The French, who had always behaved with moderation during the war, and in the course of the Westphalian negotiations, by which it was ended, inspired the princes of the Rhine with no suspicions. Their hatred of the Spaniards, their views of increasing their dominions turned towards the Netherlands, policy which prompted them not to multiply enemies, all warranted their friendship to them. The empire, and especially the princes of the Lower Saxony, thought otherwise of Sweden. It was remembered that the Swedes had treated Germany like a conquered province. Having taken from Poland and Denmark what suited their convenience, it was only by aggrandizing themselves on the side of Pomerania, that they could establish their credit in the north.

In fine, the league which Lewis XIV. made some years after with Charles II. to declare war against Holland, and the ease wherewith he engaged the Swedes to make a diversion in the dominions of Brandenburg, prove that the bands of the Triple Alliance were not so hard to be untied. Though the three allies had guarantied to the king of Spain the treaty of Aix-la-Chapelle, there was no sincere union between them. In spite of the treaty of Breda, the Dutch  
still

still affected to dispute the sovereignty of the sea with the English, and, on account of their trade, were more attached to the Danes, masters of the Sound, than to the Swedes.

The war of 1667, and the peace of Aix-la-Chapelle, introduced no change in the political situation of Europe. If some states entered into alliances, they were of no value, as not proceeding from necessity. The whole scene was changed, when the French, in conjunction with the king of England, the elector of Cologne and bishop of Munster, declared war against the United-Provinces. The rapid progress of Lewis XIV. during the campaign of 1672, raised a dread of the entire destruction of Holland. The English thought themselves struck with the blow that threatened the Dutch, and, ceasing to be jealous of their commerce, became the protectors of it; in order to hinder its falling into the hands of the French. The nation was unanimous, murmurings, complaints heard all over England: and Charles II, who was not yet come to the point of venturing to lay aside parliaments, and govern without them, dispatched the duke of Buckingham and the earl of Arlington to the Hague to encourage the States-general, who were ready to submit to the conqueror. This is perhaps the first time that a prince was seen to make an excuse to his enemies for the progress of his arms, and to exhort them to a defence; and none but a king of England, led by his own private interest, and obliged to comply with the desires of his nation, can be guilty of such contrariety in his conduct (h).

During these transactions, the famous John de Wit was, with his brother, torn in pieces by the populace, who considered them as the authors of all the calamities with which the republic was threatened. John de Wit was one of the greatest politicians of his time, and had been pensioner of Holland eighteen years. He was always averse to the office of stadtholder, and a great opposer of the house of Orange. His fall therefore was the rise of the young prince of Orange; all eyes were turned upon him; the merit of his ancestors, and John de Wit's efforts to keep him at a distance from affairs, spoke in his behalf. In a word, he was appointed without opposition

(h) The king was the sole cause of it, because he suffered himself to be led by the duchess of Portsmouth his mistress, who was sent to him by Lewis, and who had the same influence over him as madam Montespan had over the French monarch. But Charles II. should have known the difference between the two governments, and that a king of England ought not and cannot have other interest than that of the nation.



admiral and captain general of Holland. This prince, who was soon to be the soul of Europe, and to manage it as he pleased, began to employ his rare talents in rendering himself master of the United-Provinces. To inspire them with his courage, it sufficed to represent England as ready to abandon the alliance of France, whilst the emperor and the king of Spain offered their aid and protection to the States-general.

The peril of the United-Provinces threw them into a strict alliance with the branches of the house of Austria. The ambition of France began now to be talked of as more dangerous to Europe than that of the succession of Charles V. These insinuations, which have since proved too true, were spread by the prince of Orange and his friends, and supported by the courts of Vienna and Madrid. As France had humbled them, by representing them as aiming at universal monarchy, they hoped by the same method to regain their former superiority.

The peace of Nimeguen is generally considered as the period of the ascendant France has assumed over her neighbours; but some, on the contrary, think that she began then to be less powerful. Leagues were formed against her, and her acquisitions diminished her strength, as it increased her enemies, and bred suspicions and fears in her allies.

It seems that the ministry of France should, out of policy, have tempered the lustre of a glory which raised jealousies; should have laboured to remove the fears of her neighbours; renewed her alliances, and countermined the politicks of the prince of Orange, who dreading her ambition, was exciting all Europe against her. Instead of these salutary measures, re-unions were thought of; and it must be owned, nothing could be more favourable to the designs of the prince of Orange and the house of Austria, than the well-known decrees of the parliament of Besançon and the royal chambers of Metz and Brisac. The capitulation of Strasburg gave the finishing stroke, and put the empire in arms against France. The German princes saw themselves exposed to the attempts of the French, when they thought them wholly employed against the Spaniards and Dutch. They believed themselves injured, and the present danger made them forget the peril they had been in from the emperors of the house of Austria. The system established in the empire by the treaties of Westphalia was destroyed. The princes recurred to the protection of Leopold; their fear gave that emperor more power than Ferdinand III. had lost; and from that time the empire was enemy of France.

These

These sentiments appeared by the league signed at Augsburg the 9th of July 1686, between the emperor, the king of Spain, as duke of Burgundy, the king of Sweden, for the fiefs he possessed in the empire, the elector of Bavaria, the circles of Bavaria and Franconia, and the duke of Saxony; and to which the princes and states of the Upper Rhine and Westerwald, the duke of Holstein-Gottorp, and the elector palatine, acceded soon after.

The sole point now was to set bounds to the power of France; England, her old enemy, thought the same; but James II. ruled there, and his personal interest attached him to France. He had no other ally to depend on to promote his designs. He would very probably have been supported, if he had not protected with more warmth than prudence the religion he professed. His zeal carried him too far, and he sunk in the attempt. The prince of Orange landed in England in 1688, and upon king James's abdication, was crowned king by the name of William III.

This prince brought to London the same sentiments as he had at the Hague. He had long since publicly declared, that the safety of his country was his only care, and that the liberty of his allies was in danger, if the French monarchy was not first reduced, and afterwards kept within the bounds prescribed by the Pyrennean treaty. These declarations gave birth to the system of a Ballance of Power between the houses of Austria and Bourbon; and the foundations of it were laid in the treaty concluded at Vienna the 12th of May 1689, between the emperor and the States-general. This alliance, called afterwards the Grand Alliance, because all the enemies of France came into it, ran, that after the conclusion of a general peace, the parties should remain united for ever. They promised to aid one another with all their forces by sea and land, in case either was attacked by the common enemy; and engaged to listen to no accommodation till intire satisfaction was received. It was stipulated, that if Charles II. king of Spain died without issue, endeavours should be used to place the emperor or his heirs on that throne, and prevent the succession from coming to the Dauphin. The allies also agreed to engage the electors to give the empire to Joseph king of Hungary, the emperor's son. These are the principles which were constantly pursued in Europe till the treaty of Utrecht, when the scene was entirely changed, and very different principles were espoused.

there



There is no occasion to relate the events of the war of 1672. It suffices to remark, that it was ended by fourteen treaties. England first agreed with the United Provinces the 19th of February, 1674. This peace, concluded at London, was owing to the discontents of the English; to their hatred of France; to their fear of losing their trade in the Mediterranean, in case of a Spanish war; to the weakness of Charles II. to his desire of money which he lavished away; and to the liberality of the United Provinces. The bishop of Munster made his peace the 22d of April, 1674; and the elector of Cologne the 11th of May the same year.

The assemblies for a general peace did not begin at Nimeguen till the middle of the year 1676; and it was visible by the first conferences, that the negotiation would go on very slowly. By the bold demands of the Spaniards, one would have thought they had been in condition to give law to France. Persuaded as they were, that it was the interest of England and Holland not to suffer the French to enlarge their power in the Netherlands, they even required the restitution of the places they had resigned by the treaty of Aix-la-Chapelle. The emperor's ministers were more reasonable; they made no demands, because his arms had not been successful; but they sought to keep the allies united, and to prolong the war. The Swedes sincerely wished for peace; nay, would have consented to purchase it, if Denmark and Brandenburg had been willing to sell it, on any other condition but the taking from them their dominions in Germany.

Lewis XIV. was too wise to hope to escape with success out of the labyrinth into which the reconciliation of so many opposite interests had thrown him. Whilst he carried on the war with vigour, he projected to destroy the league of his enemies, by corrupting some of their allies. He cast his eyes on the United Provinces. By a series of events known to all the world, from principals the Dutch were become but auxiliaries in the war. The French armies had abandoned the center of their provinces, to march into the Spanish Netherlands. The states-general had seen themselves too near a total destruction, to be much concerned at the progress of the French in the Netherlands. They could propose to themselves nothing more than the restitution of Namur, which Lewis could not keep. In a word, ingratitude to their allies, in leaving them, should not have appeared to them so hateful as a war, which both required

immense sums, and drained the source of their riches by the ruin of their trade.

The French plenipotentiaries opened their negotiation with a wrong step; as if they knew not how much the interests of the prince of Orange differed from those of the republic, or had a compensation ready to offer him for what he should lose by the peace, they attempted to gain him. Marshal d'Estrades was quickly sensible of his error; and, perceiving that all the ministers at Nimeguen were devoted to the party of the stadtholder, he entered into a secret correspondence with some of the principal members of the states-general. Nothing was transacted in the congress but trifling formalities; all the affairs of France and Holland were managed at the Hague; but the negotiation proceeded very slowly, because it was subordinate to the operations of London, where it was not known what resolution to take; and because the Dutch, courageous or fearful, according as they hoped or despaired to induce England to declare against France, remained in a perpetual state of uncertainty.

Matters were otherwise managed at London. The most refined court arts and intrigues were used by the French to keep Charles II. in a state of inaction, and by their enemies to draw him to their side. The United Provinces were at length weary of hoping; and though Charles II. had entered into the strongest engagements with them, the 29th of July, 1678, yet a fortnight after they signed a separate peace with France. This conduct seemed strange, but was wise. Could the states-general confide much in the treaties of an irresolute, indolent prince, who was managed by his ministers according to their particular views? Besides, it was well known, that the affairs of England were then at a crisis. The animosity of the several parties was at the highest degree; and if a foreign war was not capable to allay their heats, and stifle the seeds of discord, what advantages could the states-general expect from the alliance of Charles II?

The Spaniards made their peace with France the 17th of September, 1678. They did not treat with the Swedes. These two powers, who had no affairs to decide, only published a declaration, by which, agreeing that they were tacitly included in the treaty of the 17th, they restored liberty of commerce between their respective subjects, and forbade them to commit any hostilities at sea against one another.

The



The emperor, unable to continue the war, agreed with France and Sweden the 5th of February, 1679. The engaging the king of Denmark and the elector of Brandenburg to lay down their arms, was no longer in question. Those princes, elated at their success over the Swedes, refused to make the treaties of Osnabrug and Copenhagen the foundation of their agreement. They were however forced to consent to it. The emperor had promised his good offices to induce them to a peace; and, in case of refusal on their part, to give a free passage to the troops of France to penetrate into their dominions (a). On the other hand, the dukes of Brunswic-Lunenbug, Zell, and Wolfenbuttle, had signed at Zell their accommodation, the same day the emperor had signed his at Nimeguen; and the bishop of Munster, who, after having left the alliance of France, had leagued with her enemies, agreed by two treaties of the 29th of March, to recall his troops who had joined the enemies of Sweden.

Frederic-William, elector of Brandenburg, had no other resource, but to hasten his agreement, in order to obtain the more advantageous terms. It was signed at St. Germain-en Laye, the 29th of June, 1679; and this treaty was afterwards approved and confirmed by all the contracting parties at the congress of Ryswic. Christian V. king of Denmark, saw himself then forced to seek peace. His ministers concluded it at Fontainebleau, the 2d of September, 1679; and at London the 20th of the same month.

# FRANCE. LORRAINE.

- ‘ The articles of the treaties of the Pyrenees and Aix-T. Nim.
- ‘ la-Chapelle, from which the treaty of Nimeguen between Fr. Sp. 26.
- ‘ France and Spain shall not derogate, shall remain in full
- ‘ force.
- ‘ France and the emperor agree on the same condition, Fr. Emp. 1.
- ‘ with respect to the treaty of Munster.
- ‘ Lewis XIV. and his successors shall remain possessed of Fr. Sp. 11.
- ‘ Burgundy, commonly called Franche-Comté, including
- ‘ Besançon.

(a) See the 26th article of the 5th between the emperor and treaty of Nimeguen between the Sweden. emperor and France; and the

By an act passed at Vienna, the 5th of May, 1651, the emperor and empire had transferred to Philip IV. of Spain all the imperial rights to this city.

T. Nim.  
Fr. Sp.  
5. 11. 12.

‘ Spain resigns to France the cities and places of Valenciennes, Bouchain, Cambray, Aire, St. Omer, Ypres, Warwich, Warneton, Poperinghen, Bailleul, Cassel, Bavay, Maubeuge, with their bailiwicks, dependencies, &c. The kings of France shall enjoy them in full sovereignty; and, in yielding Aeth to Spain, they shall retain la Verge de Menin and Condé, which belong to its castellany.

Ibid. 13.

‘ The king of Spain promises to engage the bishop and chapter of Liege to resign Dinant to the French, and to obtain the consent of the emperor and empire to confirm this cession. If the negotiation does not succeed, Charlemont shall be given to France.’

The cession of Dinant did not take place, and Lewis XIV. had possession of Charlemont.

T. Nim.  
Fr. Emp.  
5.

‘ The emperor gives to France the city of Friburg, with the villages of Lehen, Metzhausen, and Kirchzart, in full sovereignty, and with liberty to send thither garrisons, and all warlike stores and provisions, without molestation, or paying any toll in passing through the territories of the empire.

Ibid.

13. 14. 15.

‘ The city of Nantz, with its jurisdiction, shall be united to the crown of France. Four roads shall be made from that city to St. Disier, to Alsatia, to Metz, and to Franche-Comté. They shall be half a league wide, and shall belong in full sovereignty to the king of France.

Ibid.

16. 17.

‘ France shall possess in full sovereignty the city and provostship of Longwic. In exchange, France shall give the city of Toul, with its jurisdiction, to the duke of Lorraine, who shall enjoy there all the rights belonging to the crown of France.’

The Imperial and French ministers agreed by separate writings, which are joined to the treaty they had signed, that, if the duke of Lorraine refuse to subscribe to the articles that were agreed for him, he should be free to demand other terms, and France to grant them; and the emperor should not deem these alterations a breach of the present treaty. The ministers of Vienna promised likewise, that their master should not take up arms in prosecution of the duke of Lorraine’s pretensions, or under pretext of ending his differences. The same clause had been formerly inserted in the treaties of Munster and the Pyrenees. So far was the duke of Lorraine from ratifying the terms that were stipulated for him, that



his minister protested against them, the 21st of April, 1679; and the duke did not get again his dominions.

HOUSE OF AUSTRIA.

‘France shall resign to Spain Charleroy, Binch, Aeth, T. Nim.  
Oudenard, and Courtray, with their bailiwics, depend- Fr. Sp.  
encies, &c.’ 4.

These places had been given to France by the treaty of Aix-la-Chapelle.

‘It is agreed, that the eastern and western fluices of Ibid. 10.  
Newport, and the forts built there, do not belong to the  
‘castellany of Furnes, and shall for the future be inseparably  
‘joined to Newport.’

‘The king of France resigns to the emperor all the rights Ibid. 5.  
‘to Philipsburg given him by the treaty of Munster.’

ENGLAND. UNITED PROVINCES.

‘The exercise of the catholic religion shall be restored T. Nim.  
‘and maintained in the city of Maestricht, and its depend- Fr. Holl.  
‘encies, according to the capitulation of this place in’ 9.  
‘1632.’

‘The treaty of Breda, and all the former alliances be- T. Lond.  
‘tween England and the United Provinces, shall be main- 1674,  
‘tained in their full force.’ 7.

‘In all the seas between Cape Finisterre and Vanstaden Ibid. 4.  
‘in Norway, the ships of war or merchantmen of the  
‘United Provinces, whether alone or in squadrons, shall  
‘strike the flag, and lower the top-sail, to every ship bear-  
‘ing the English colours, called the Jack.’

The following articles are taken from the two treaties of Westminster, between the English and Dutch; the first signed the 3d of March, 1678; and the second the 24th of August, 1689.

‘There shall be perpetual friendship, both by sea and T. West.  
‘land, as well in as out of Europe, between England and 1678,  
‘Holland. This confederacy shall have for its principal Ibid. 1689,  
‘object the maintenance of the parties in the possession of 1. 3.  
‘the rights and liberties they enjoy in Europe only, and  
‘which they have acquired by former conventions, or shall  
‘acquire hereafter.’

The second treaty of Westminster is in some measure only a copy of the first, as are also the treaties of peace and commerce signed at Breda and London in 1674.

Ibid 3. 4. 'The parties shall mutually guaranty the possession of all countries, cities, places, ports, &c. they hold in Europe, and the full and exact observance of all the treaties they have made or shall make in concert with any other power whatsoever.

T. West.

1678,

4. 5.

Sep. Art.

1. 2. 3.

'If either is disturbed in the possession of their countries, lands, rights, privileges, and liberties of trade and navigation, the other shall first interpose his good offices; but, if an open rupture ensues, shall forthwith send assistance. In this case England shall furnish 10,000 men to Holland, and the Dutch 6000 men and 20 ships of war to England. These succours shall be maintained at the charge of the party that furnishes them, and shall be entirely subject to the orders of the party they are sent to. If the situation of affairs require a larger aid, the parties shall settle it. The party injured in his rights shall require his ally to declare himself openly within two months after information, and shall be obliged to act with all his forces by sea and land.

T. West.

1678,

9. 10. 11.

'In this last case, neither of the parties shall make a separate peace with the common enemy, nor even begin, unknown to the other, any negotiation of truce or suspension of arms.

'Either of the allies which shall be attacked, may make levies of soldiers within the territories of the other, provided the same be done according to such regulations as the parties shall agree upon.'

It is strange that negotiations of credit, and who cannot be charged with being ignorant of their business, should clog treaties with such useless conditions. It would have been better barely to say, that the English and the Dutch may treat in time of war for permission to raise levies in each other's dominions? Who can doubt their having this liberty? It was not worth while to agree upon it. Every article of a treaty should confer or take away a right: form an engagement: decide an equivocal question: or name arbiters to determine it within a certain time. Persons a little versed in the knowledge of negotiations will perceive this to be no needless remark. But to say something more in the treaties of alliance, such as the foregoing, and those by which two powers promise mutual assistance, the expressions cannot be too precise, or the nature of the engagements too decisively fixed.



fixed. Whatever is vague and indeterminate may leave room for contests and difficulties, and consequently render the alliance useless when the engagements come to be performed. How often has it happened that two allies have wasted, in fruitless disputes, the time that should have been employed in action? Of this histories afford us numberless instances.

SWEDEN. HOUSE OF BRANDENBURG.  
HOUSE OF BRUNSWIC.

The treaties of Westphalia shall be the basis of the accommodation between Sweden and the emperor, the electors of Brandenburg, the House of Brunswic, and the bishops of Munster and Paderborn. All the articles that shall not be derogated from by this pacification shall remain in force. See *T. Nim. Emp. Swed. Art. 3. T. Zell. Art. 4. T. Nim. Swed. Mun. Art. 3. T. St. Germain-en-Laye, Art. 4.*

The treaties of Roschild, Copenhagen, and Westphalia, shall be executed in all their articles; and also, the acts that are annexed to, and make part of them. *T. Feneau-Bleau, Art. 4. T. Lunden, Art. 4.*

Except Dam, Golnau, and their dependencies, Sweden gives, to the elector of Brandenburg, all his possessions on the right side of the Oder. However Golnau and its territory shall be left as a pledge in the hands of the elector, who shall be obliged to restore them upon the payment of 50 thousand crowns. The elector, derogating from the treaty of Stetin in 1653, renounces his share of the rights of toll, which Brandenburg levies in the ports and harbours of the further Pomerania.

Sweden shall continue to enjoy all the rights of sovereignty upon the river Oder, and the elector of Brandenburg shall not erect any fortres, or fortify any place within the territories that are resigned to him.

The house of Brunswic, to whom France is bound to pay 300 thousand crowns, shall be put in possession of the provostship of Dorwern, and the portion of land between the Weser, the Aller, and his antient demcans; but no fortress shall be built there, nor any new tolls established.

Sweden resigns also to the said house the burgh of Tedinghausen, with all its dependencies, and guarantees the peaceable possession of all these new acquisitions.

## ARCHBISHOPRIC OF COLOGNE. BISHOPRIC OF MUNSTER.

- T. Col. 1674, 5. ' The United Provinces renounce all pretensions to Rhineberg and its territory, which shall be restored to the elector of Cologne, bishop of Liege.
- T. Col. 1674, 4. ' In restoring the city and fortress of Weerth to count Waldeck, the bishop of Munster reserves the asserting, in an amicable way, his rights to that place.
- T. Nim. Fr. Mun. 3. Sw. Mun. 6. ' France shall pay him 100 thousand crowns, and the king of Sweden shall leave him in possession of the bailiwick of Wildhausen, till he pays him two thousand rixdollars.

## HOUSE OF SAVOY.

Art. 31.

The conditions stipulated in the treaty of Munster, concerning the duke of Savoy, are specified and renewed in the treaty of Nimeguen between France and the emperor.

## HOUSE OF BOUILLON

T. Nim.  
Fr. Emp.  
28.

- ' The duke of Bouillon shall remain in possession of the castle and that part of the dutchy of Bouillon he now holds. His differences on this subject with the bishop of Liege shall be amicably decided.

The bishop and chapter of Liege protested the 28th of February, 1679, against this article. They renewed their complaints and protestations the 31st of October, 1697, against the article of the peace of Ryswic which confirms the treaty of Nimeguen.

## DENMARK. HOUSE OF HOLSTEIN. GOTTORP.

T. Lund.  
Art. 10.

- ' The king of Denmark having pretensions and a mortgage upon Cruysand, it is agreed that the king of Sweden shall pay at Hamburg the principal and interest according to the custom of Germany; and that his Danish majesty shall remain in possession till full payment. Then he shall restore Cruysand to Sweden without any farther pretension; and in the mean time the king of Denmark shall not build any fort.

' The



' The emperor shall grant his protection to the duke of Sleswic-Holstein-Gottorp, to secure to him the enjoyment of all his rights in the empire.

' The duke shall be restored to all possessions, privileges and liberties, he ought to enjoy by the treaties of Roschild and Copenhagen.

It was necessary to stipulate in the strongest manner in favour of the duke of Holstein-Gottorp. The king of Denmark, declaring in 1675 against Sweden, had seized the greatest part of that prince's demesns, and compelled him in the castle of Rensburg, where he was kept prisoner, to give up, by a treaty, the rights he had acquired at Roschild and Copenhagen. It was very difficult to destroy the seeds of dissension between these two princes, who were always ready to arm against each other; treaties were but a weak fence between them; accordingly the duke of Holstein did not long enjoy in peace the fortune he owed to the protection of Sweden.

The first differences that arose between them after the pacification of Nimeguen were decided the 20th of June, 1689, at Altena, by the mediation and under the guarantee of the emperor Leopold, and the electors of Saxony and Brandenburg. This treaty maintained in full force those of Roschild, Copenhagen, Fontainebleau, and Lunden.

' The king of Denmark renounces the mortgage and rights he pretends to have in the bailiwick of Trittau. Prince George, whom the mediators take upon them to indemnify without any charge to Denmark, renounces also all his pretensions to the isle of Fehmeren, and the bailiwicks of Trembsbittel and Heinhorst. *T. of Altena, Art. 2. 3. 5. and Act of Prince George of Denmark, at Hampton-Court, the 19th of July, 1689.*

If attention be given to what has been said of the strange government of the duchies of Sleswic and Holstein, the sovereignty of which is held in common by the king of Denmark and the duke that bears this name, it will be thought no wonder that the most solemn engagements could not bind them to peace. How clear soever was the treaty of Altena, each party explained it in his own sense, and both took up arms. Charles XII, king of Sweden, came to the assistance of his brother-in-law the duke of Holstein, and invaded Zeland. This hero, at the gates of Copenhagen, forced the Danes to a peace, which was concluded at Travendal the 18th of August, 1700.

Though

Though these differences made in some measure part of the famous war which in this century has altered the state and interests of the north, the treaty of Travendal seems rather to belong to the pacification of Nimeguen, than to those of Stockholm and Newstadt, the principles whereof are very different.

T. Lav. 2.

‘ The treaties of Roschild, Copenhagen, Fontainebleau, Lunden, and Altena, shall be punctually executed according to their tenor.

Ibid. 3. 4.

‘ The kings of Denmark, as dukes-regents of the duchies of Sleswic and Holstein, shall not appropriate to themselves any right, prerogative, or pre-eminence, over the dukes of Holstein-Gottorp as dukes-regents of the same duchies. There shall be a perfect equality between them. All orders given, all regulations made, without the unanimous and mutual consent of the two regents, shall be void and of no effect. Each of them, however shall exercise at his pleasure the rights of sovereignty in the cities and bailiwicks which belong to him as his own.

Ibid. 5.

‘ In case Sleswic and Holstein are attacked or threatened by any foreign power, the two princes shall be obliged to join their forces. But, under pretence of defending, one shall not be bound to meddle in affairs which do not concern him, or wherein the other shall be engaged without his consent, or against his advice. The duke of Holstein-Gottorp and his successors shall have the full and free right of arms, armaments, fortresses, and alliances. He shall not however be allowed to erect fortresses nearer than two leagues from those that belong to the king of Denmark, and than one league from his territory, and from the roads leading from Flemsburg to Rensburg, and from thence to Itochoe, Glukstad, and Hamburg. The king of Denmark is bound in the same engagements with regard to the duke of Holstein. Neither shall keep in the common duchies above 6000 soldiers without a visible necessity. The duke of Holstein shall make use of foreign troops, provided he hires them of different princes, and not above 3000 of the same prince.

T. Lav.

31.

‘ The subjects of the duke of Holstein and the merchandizes that shall be brought from any sea-port in the bailiwick of Tundiren, or shall go out of that territory for embarkation, shall pay no toll at the Custom-house at Lyft.

‘ The



The agreement made at Gluckstad in 1657, between T. Lav. the king of Denmark and the duke of Holstein, about the 8. bishopric of Lubec, shall remain in full force.

By that agreement the king of Denmark renounces his pretension to the alternate possession of the bishopric of Lubec with the house of Holstein.

### PROTESTATIONS.

The nuncio Bevilacqua, patriarch of Alexandria, protested, in the name of Innocent XI, against the treaties of Nimeguen, as founded upon the treaties of Westphalia, the 7th of February, 1679. This is the last time the court of Rome protested in form against the peace of Westphalia. It would have been exposing his authority to try to weaken treaties which, in the empire, stand upon an equal foot with the golden bull itself.

### CHAP. V.

#### PACIFICATION of RYSWIC.

BY the remarks prefixed to the last chapter may be seen what was the conduct of the French ministry after the peace of Nimeguen, and what were the dispositions of their neighbours. Lewis XIV. was acquainted with their motions; their intrigues, and the league at Aufburg, which was the result. He knew his enemies were preparing to attack him on every side; and knew the necessity of preventing them, in order to disconcert their projects, or at least not to fear them. The storm that threatened France was of a nature not to be allayed by negotiations. These were the true causes of the war of 1688 (b). The right of the duchess of

(b) It is true, the confederacy against him was the motive of the French king's beginning the war; but the cause of this motive was the haughty and unjust conduct of the French ministry, who had agreed to the peace of Nimeguen, with a view only to recover themselves a little, and fall the more powerfully upon the Netherlands and the United Provinces, as well as upon the emperor and empire. The discovery

of Orleans to the succession of her brother the elector Palatine, and those of the cardinal of Furstenberg to the archbishopric of Cologne, were only pretences. How important soever these affairs were, they ceased to appear so, as soon as the war was kindled. At the peace, it was only settled, that there should be a general amnesty for the cardinal of Furstenberg, for his relations and adherents; and that they should be restored to the rights, effects, feodal and allodial, benefices, honours, ranks, and prerogatives, of which they had been deprived during the war. As to the contests between the dukes of Orleans and the house of Neuburg, nothing was decided. The empire and France agreed only, by a separate article of their treaty, that arbitrators should be appointed, within a certain time, to judge of the dukes's demands, and, if they could not agree, the affair was to be brought before the pope to be finally decided.

The war had now continued some years with great warmth on both sides. The success of the French arms, which on any other occasion would have induced the allies to seek peace, served only to exasperate them in a war, which a jealousy of the ambitious designs of Lewis XIV. had kindled, and by which they proposed to humble that monarch.

Notwithstanding his successes, Lewis shewed a strong inclination to treat. He pressed the king of Sweden to offer his mediation to his enemies, and even declared upon what terms he was willing to make peace. But unhappily Europe had been used both to fear and suspect him; so that the more moderate he appeared, the less he was believed.

Various were the conjectures about these pacific advances; some thought Lewis wanted to take breath, and therefore inferred the necessity the allies were under to exert their utmost efforts. Others believed, that, in seeming to desire peace, he only sought to engage the neutral powers to his side, and render his enemies odious. They were persuaded, in affecting a false generosity, his aim was to corrupt some of the confederates, and afterwards to take advantage of the weakness of the allies, and to crush them by pretending to be offended at their slighting his advances.

The most reasonable imagined, that Lewis, having an eye to the Spanish succession, thought only of breaking the alliance against Spain. They believed he wanted only to

recovery of these schemes induced not to attack the king of France, the elector Palatine to labour so but to oppose his ambitious designs of attacking others.

repair



repair his finances, and have time to prepare for war. This belief seemed the more probable, as the king of France, in departing, in favour of the house of Bavaria, from his pretensions to the Netherlands, reserved his right to the succession of Charles II, in case he died without issue. And yet these same persons saw something inconceivable in Lewis's advantageous offers. They did not think the breach of the alliance was equivalent to them. The confederates had already settled the affair of the Spanish succession; they were used to treat and assist one another; and the sight of the least danger would unite them again, their interest being always the same. Besides, though this dissolution of the grand alliance should have been more beneficial to Lewis, ought he to purchase it so dearly? For the allies, on their part, in order not to be exhausted at the death of the king of Spain, would have accepted, on less advantageous terms, a peace which they considered only as a truce necessary for their affairs.

According to the memoirs lately published under the name of the marquis de Torcy, justice was not done to the views of Lewis XIV. It is there said, Lewis desired peace, because he was touched with the calamities of the war, and, in renouncing the advantages gained by his arms, he had no other aim but to secure the peace, and remove the fears and suspicions of Europe. It is added, the king of Spain of his own accord, and without the knowledge of France, called the duke of Anjou to his succession; and, instead of expending immense sums in bribing the Spanish ministers, it was debated in council at Paris, whether the will of Charles II. should be rejected, and the Partition-treaty adhered to.

In support of this account, it is alledged, that it would have been most strange to negotiate at the Hague, and at London, a partition, at the same time that it was hoped the duke of Anjou would be called to the succession of the whole monarchy. What would have been the fruit of so fraudulent a conduct? To weaken at once the will of Charles II. and the Partition-treaty, to incense the enemies of France, and increase the obstacles to the advancement of the duke of Anjou. It is farther observed, that the faint manner in which Lewis undertook the war of 1701 clearly proves that he did not conclude the peace of Ryswic, with design to prepare for the conquest of Spain.

Be these things as they will, the advantageous offers of Lewis XIV. in 1693 were ineffectual. The war was carried on with vigour, and it was seen that France was not exhausted; but the peace signed at Turin the 29th of August, 1696,

1696, between Savoy and France, and confirmed afterwards by all the parties of Ryswic, was in some sort a signal of the general peace (c). Pursuant to the first article of the treaty, the duke of Savoy forced the allies, whom he abandoned, to consent to a cessation of arms in Italy. Whereupon the French joined all their forces upon the Rhine and in the Netherlands, which was a considerable advantage; the conquests they made there were not useless, like those of Italy, which the French could not keep, and which therefore were capable to oblige the enemies to seek peace.

The negotiations of Ryswic were not difficult. The 20th of September, 1697, the French plenipotentiaries signed the peace with Spain, England, and Holland; and the 30th of the next month with the emperor and empire.

### FRANCE. LORRAINE.

T. Ryf.  
Fr. Emp.  
3.

‘ The treaties of Westphalia and Nimeguen are to be the foundation and basis of the treaty of Ryswic between France on one part, and the emperor and empire on the other. All the articles that shall not be derogated from, shall remain in force.

T. Ryf.  
Fr. Sp.  
29.

‘ The treaties of the Pyrenees, Aix-la-Chapelle, and that of Nimeguen, between France and Spain, are confirmed in all the articles which are not altered by the treaty of Ryswic.

T. Ryf.  
Fr. Emp.  
16.

‘ The emperor and empire give to the king of France Landau and its territory, consisting of the villages of Nufdorf, Arnheim, and Quiechem. They likewise resign to him Shasburg, and what belongs to it on the left side of the Rhine, with all the jurisdiction, property, and rights of sovereignty, which they have over that imperial city.’

Lewis XIV. had been possessed of this place since the 30th of September, 1681, by virtue of two acts: the first was the treaty between him and the pretor and consuls of Strasbourg, who acknowledged him for sovereign lord and pro-

(c) The peace was made at the expence of the honour and reputation of that prince, which he sacrificed to the ambition of setting one of his daughters on the throne of France. His son

and successor had sentiments more worthy of a king, and never could the intrigues and promises of France induce him to take the least step against his own engagements.

tector.



rector \*. The second was the truce concluded at Ratisbon \* See Chap. the 16th of August, 1684, between France and the empire. III.

The first of these acts was null of itself, no law obliging an imperial city to separate itself from the Germanic body, without their consent. The second gave the right of sovereignty to France but for twenty years. The right of sovereignty granted by the treaty of Munster over Alsatia, and its ten free cities, met with some objections in the congress of Nimeguen from the ministers of the emperor Leopold. The affair was decisively settled by the 4th article of the treaty of Ryswic, between France and the emperor and empire. It is there said, that all the places and rights, which were seized by his most christian majesty out of Alsatia, as well during the war and by way of fact, as under the name of unions or re-unions, shall be restored to the emperor, empire, and to the states and members thereof. The re-unions, which relate to Alsatia, are therefore valid. It was by the decrees of the 22d of March and the 9th of August, 1680, that the royal chamber of Brisac put the king of France in possession of the rights of sovereignty over Lower and Upper Alsatia.

The duke of Lorraine shall be restored to the free and full possession of all the places and properties which his uncle duke Charles in 1670 (when they were seized by France) did enjoy, except only such alterations as are explained in the treaty. T. Rys. Fr. Emp. 28. See Chap. I. D. of Lor.

' The ramparts and bastions of the new town of Nancy, and the outworks of the old, shall be demolished, with the fortifications of Kirsch and Homburg, and shall never be rebuilt. The duke may inclose the new town with a plain wall, without any angles. France shall enjoy, in full sovereignty, the fort of Saar Lewis, with half a league of ground round it, and the city and provostship of Longwic; giving in exchange to the duke of Lorraine another of the same extent and value in one of the three bishoprics. The troops of the French king shall have free passage through the duke's territories, upon timely notice, and paying ready money for what they shall take. So the roads reserved to France by the treaty of Nimeguen shall return to the duke's obedience. T. Rys. Fr. Emp. 29. 30. 32. 33. 34.

## E M P I R E.

T. Ryf.  
Fr. Emp.  
4.

‘ Restitution shall be made to the emperor and empire, by the king of France, of all the places out of Alsatia, that have been seized by force of arms, or by virtue of the decrees of the parliament of Besançon, and the chambers of Metz and Brisac; but the catholic religion shall continue in the same state it is at present, in the places to be restored.’

This last clause, contrary to the regulations of the treaties of Westphalia, has caused in the empire quarrels capable to disturb the public peace. In the just and precise sense of the words, the clause only ordained, that the churches built by the king of France should not be demolished; and that the catholics should continue their assemblies therein. The elector Palatine, the archbishop of Mentz, and some other princes, extended the meaning of the words, and by forced reasonings pretended to infer, that the protestants could not have the free exercise of their religion in the places where the catholics had churches. Nay, they diligently sought after places, towns, villages, and hamlets, where mass had occasionally been said once or twice, and there erected chapels.

It may easily be conceived with what warmth the protestant princes of Germany opposed these pretensions, since, in concert with the king of Sweden, who had been mediator of the peace, they refused to sign the treaty of Ryswic. Their complaints and remonstrances began in 1714, during the congress of Baden. They demanded the repeal of the clause of Ryswic; and though they were supported by their allies, the maritime powers, and favoured by France, they could obtain no satisfaction.

This quarrel ceased at length, but it revived in 1735, when the question was to settle the preliminaries of the peace concluded at Vienna some years after. The king of France declared on that occasion, that he left the decision of the affair to the emperor and the diet of the empire; that, by the clause of the 4th article of Ryswic, he did by no means pretend to weaken the rights, which the protestants of Germany enjoyed by virtue of the peace of Westphalia; and that he desired nothing more than that the churches, built by Lewis XIV. in favour of the catholics, should



should remain. The princes and states of the Augsbourg confession were not heard.

Probably they will relinquish the prosecution of this affair. They have failed in two attempts; and the success would be the more difficult now, that a sort of proscription must be exercised upon the catholics, in depriving them of what they possess. Besides, the princes of the Romish communion have by degrees drawn, from the clause of Ryswic, all the advantages they could expect; and it is reasonable to think that, for the future, their moderation will make the protestants forget the injury done them by the peace of Ryswic.

' The king of France shall restore to the emperor and empire the fort of Kehl built by him, and shall demolish, at his expence, the fort of Pille, and the other fortifications, in the isle of the Rhine, except fort Lewis. The fortifications of this fort, and of Huningen, shall be destroyed, with their bridges of communication. The fortifications added, after the peace of Nimeguen, to the castles of Traerbach, Kirn, and Eberenburg, shall have the same fate; as also the fort of Montroyal on the Moselle. None of these fortifications shall ever be rebuilt. The navigation of the Rhine shall be free to both powers; the course of the river shall not be changed, nor new tolls established, or old ones increased.

T. Rys.  
Fr. Emp.  
16. 23. &c.

' The king of France resigns to the emperor and the house of Austria the city and castle of Friburg, the fort St. Peter, the Star-fort, with all the works newly erected in the Black Forest, and the rest of the Brisgau, the villages of Lehen, Metzhausen, Kirchzart, the city of Brisac, with its dependencies, on the right side of the Rhine. The fort le Mortier shall remain to France; but that part of Brisac, on the left side of the Rhine, and commonly called the New City, shall be demolished, with its bridge and the works, in the isle of the Rhine. They shall never be rebuilt.

Ibid.  
19. 20.

' The treaty of St. Germain-en-Laye, of the 29th of June, 1679, between France and the elector of Brandenburg, shall remain in full force.'

Ibid. 7.

' The grand master of the Teutonic order shall enjoy all his antient privileges and estates that are in the French dominions; and so shall likewise the bishop of Worms.

Ibid. 11.

' The county of Montbeliard shall preserve its immediate dependence on the empire, without having any regard to the faith and homage paid to the crown of France in 1681.

Ibid. 13.

‘The territory of Baldenheim, with its dependencies, shall be held of the county of Montbeliard.’

## S P A I N.

T. Ryf. ‘France shall restore to Spain the city and duchy of  
Fr. Sp. 5. ‘Luxemburg, the county of Chinoy, with their dependencies.’

The French had remained in possession of that country, by virtue of the truce of twenty-four years, concluded at Ratisbon the 16th of August, 1684, between France and Spain. It is well known, that, the king of Spain seeking to elude, by affected delays, the execution of the articles stipulated at Nimeguen, the French began some hostilities, to which the truce of Ratisbon put a stop. Lewis XIV. could hardly find a fairer opportunity to attack the house of Austria; as the emperor was then involved in a war with the Turks in the kingdom of Hungary.

Ibid. 7. 10. ‘By the peace of Nimeguen, the king of France, resigning Aeth to the Spaniard, had reserved la Verge de Menin and Condé. He also retained, by the peace of Ryfwic, the town of St. Antony, Vaux, Guarrain, Ramecroix, Bethune, Constantin, Paradis, Kain, Havines, Meles, Mourcourt, le Mont de St. Audebert, called de la Trinité, Fontenoy, Maubray, Hernies, Calvelle, and Viers, which are dependencies of Aeth. The generality of the provinces of Flanders, Hainault, and Brabant, shall belong to the king of Spain, but without prejudice to what has been resigned to France by the foregoing treaties.

Ibid. 10. ‘All the places, cities, towns, villages, and hamlets, of which the king of France had made re-unions to his crown, since the peace of Nimeguen, in the provinces of Namur and Luxemburg, in Flanders, Brabant, and Hainault, shall be restored to Spain, except 82 towns, villages, or hamlets, which the king of France considers as dependencies of Charlemont, Maubeuge, and some other places resigned to France by the treaties of Aix-la-Chapelle and Nimeguen.’

It is needless to mention the names of all the places resigned and restored; they are without number. The reader, if he pleases, may consult the treaty of Lisle, concluded the 3d of December, 1699, between France and Spain, in execution of the treaty of Ryfwic. He may also have recourse to a writing intituled, “Lisle, and a declaration of the re-unions



“ unions made by his most christian majesty in the provinces  
“ of his catholic majesty in the Netherlands, since the treaty  
“ of Niméguen.”

‘ As to the rents laid upon the generality of some pro- T. Ryf.  
‘ vinces in the Netherlands, of which part is possessed by Fr. Sp.  
‘ France, and part by Spain, it is agreed, that each shall <sup>23. 24.</sup>  
‘ pay his quota; and commissioners shall be named to settle  
‘ the proportion each ought to pay. As to the rents due See T. Lisse,  
‘ upon such or such a particular place, they shall be paid to <sup>1699.</sup>  
‘ the creditors of what nation soever they be.’

E N G L A N D.

‘ France acknowledges king William, and promises not T. Ryf.  
‘ to disturb him in the free possession of his three king- Eng. Fr.  
‘ doms, nor afford any assistance, directly or indirectly, to <sup>4.</sup>  
‘ his enemies.’

James II. had foreseen that his interests would be sacri-  
ficed to the peace, and therefore protested, fourteen days  
before the signing, against all stipulations to his prejudice.

‘ The king of England promises to pay punctually to  
‘ queen Mary of Este, wife of James II, an annual pension  
‘ of fifty thousand pounds sterling, or such other sum as  
‘ shall be settled by parliament, under the great seal of  
‘ England.’

This article is in a declaration of the English ambassa-  
dors made to those of France, and inserted in the protocol  
of the minister mediator. It was here to be observed, that  
such sort of acts, which run upon points not to be inserted in  
a treaty, have however the same validity.

U N I T E D P R O V I N C E S.

‘ France, and the republic of the United Provinces, re- T. Ryf.  
‘ nounce all prétensions whatsoever that they may have upon Fr. U. P.  
‘ each other.’ <sup>II.</sup>

H O U S E O F S A V O Y.

‘ The articles of the treaties of Querusque, Munster, the T. Tur.  
‘ Pyrenees, and Nimeguen, concerning the house of Savoy, <sup>2.</sup>  
‘ are maintained in full force.

T. Tur.

1754

‘ The king of France resigns to the duke of Savoy, in full sovereignty, the lands and demesns included in the government of Pignerol. All the fortifications shall be demolished; the duke of Savoy engages never to rebuild them, and promises to erect no new ones in the restored country. The city of Pignerol shall only have a plain wall about it.

‘ France shall still remain charged with paying to the duke of Mantua, on account of the house of Savoy, the sum of 494,000 gold crowns, pursuant to the treaty of St. Germain-en-Laye.’

The reader may look back to the chapter of the Treaty of Westphalia, at the article of the House of Savoy.

Ibid. 5.

‘ The ambassadors and envoys of Savoy shall be treated at the court of France as those of crowned heads; and the ambassadors of France, at Rome and Vienna, shall treat the ambassadors of Savoy as they do those of kings.

Ibid. 7.

‘ The duke of Savoy engages not to suffer the subjects of the king of France to settle, on any pretence whatsoever, in the valleys of Lucern, or of the Vaudois. He also promises not to permit the exercise of the reformed religion in the government of Pignerol.

‘ Maria Adelaid of Savoy renounces, in favour of the princes of her house, in the direct or collateral line, all the rights she may have by her birth. The king of France, the dauphin, and the duke of Burgundy, approve and confirm this renunciation.’

This is the third article of the marriage contract of the princess of Savoy with Lewis duke of Burgundy.

## HOUSE OF FARNESE.

T. Ryf.

Fr. Sp.

32.

‘ The king of Spain shall put the island of Ponza in the Mediterranean into the power and possession of the duke of Parma.’

## PROTESTATIONS.

By an act passed at Ryswic, the 7th of October, 1697, the house of Egmont protests against whatever was stipulated in the congress of Ryswic, in prejudice to his rights



upon the duchy of Guelders, the counties of Egmont, Zutphen, Meurs, Hornes, &c. and the lordship of Meehlin, possessed by the king of Spain, the states-general, or the bishop of Liege. The states of Guelders and Zutphen answered this act by a counter-protestation of the 30th of January, 1698, dated at the Hague.

The town of Embden was included by the states-general in the treaty of Ryswic with France. The prince of East-Frizeland protested at the Hague, the 4th of November, 1697, against this inclusion; pretending very justly, that such an honour can belong only to a sovereign power. Embden, supported by the protection of the United Provinces, has always affected an intire independence. The disputes with the prince of East-Frizeland are too well-known to be mentioned here. The states-general consented to withdraw their garrison, as soon as the king of Prussia came to be possessed of the principality of East-Frizeland, by the death of the late sovereign, whose heir he was by right of reversion.

At the Hague, the 8th of November, 1697; protestation of Maria d'Orleans, duchess of Nemours, for the preservation of her rights to the principality and marquifate of Rothelin.

Ryswic, the 28th of September, 1697; protestation of the house of Tremouille, on account of its rights to the kingdom of Naples.

Ryswic, the 7th of October, 1697; protestation of the house of Montmorency-Luxemburg, for the preservation of its rights to the duchy of that name.

The 4th of November, 1697, the duke of Mantua notified to the ministers assembled at Ryswic an act, whereby he protested against whatever was done, in the treaties of peace, contrary to his rights and interests.

The same day the house of Brunswic-Wolfenbuttel protested at the Hague, for the preservation of its rights to two prebends in the cathedral of Strasburg. They had been given to him by the treaty of Osnabrug, and were taken from him by a decree of the chamber of Brisac, and by the 4th article of the treaty of Ryswic, between France, the emperor, and empire.

The act has been mentioned, whereby James II. of England protested, the 16th of September, 1697, against whatever should be stipulated to his disadvantage in the treaty of Ryswic.

## A P P E N D I X.

The 13th of December, 1697, the ministers plenipotentiaries of France, at the congress of Ryſwic, made a general proteſtation againſt all thoſe that had been preſented to the congress.

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## C H A P. VI.

TREATIES OF TRADE AND NAVIGATION,  
BETWEEN THE PRINCIPAL POWERS OF  
EUROPE.

**W**E live in an age which does not want to be told, that a nation cannot be happy and flouriſhing without commerce. It was very late before this truth was known to Europe. The barbarians, who eſtabliſhed themſelves upon the ruins of the Roman empire, were fit only for war, and the nature of their government rendered it neceſſary for ſeveral centuries. Whiſt the moſt powerful nations were trying their ſtrength againſt one another, or were a prey to intestine diviſions, ſome republics in Italy built ſmall veſſels, and transported from port to port ſuch commodities as they hoped to diſpoſe of. Theſe beginnings were proſperous, and helped to eſtabliſh a rich trade, which the ancients had carried on by the way of Alexandria, and the ports of Syria. From theſe places the Venetians and Genoefe imported the merchandizes of the Eaſt-Indies, which they ſold again at an immense profit.

After their example, ſome cities, ſtanding on the Baltic ſea, ſettled a correſpondence between the northern kingdoms and Germany, of which they themſelves were the channel. All the trade of theſe provinces was in their hands: they entered into a confederacy, to render themſelves more conſiderable; their riches enabled them to make themſelves reſpected by their neighbours, and the moſt potent princes ſought their alliance.

Commerce was no longer a ſtranger to Europe: all the cities on the ſea or large rivers, took advantage of their ſituation; they became ſo many ſtaples, where the neighbouring provinces brought the overplus of their merchandizes, and provided themſelves with what they wanted.

Manufactures



Manufactures were formed on all sides; and the pilots, by constant practice, carried at length navigation to the highest perfection. In the fifteenth century, Italy was already very famous for silk-stuffs, and the Netherlands for woollen manufactures. About the same time France had the good fortune to enjoy a Jaques-Cœur, the greatest merchant perhaps Europe has ever seen; and the Portuguese, by coasting along the western side of Africa, were trying to open a new passage to India.

The discovery of America, and the safe arrival of the Portuguese to Calicut, by doubling the cape of Good-Hope, produced a surprising revolution in all Europe. The trade of Italy sunk, and Lisbon became the general magazine of the Indian commodities. The Portuguese, sold, at a moderate price, what the Venetians and Genoese were forced to pay dear for to the Arabs or the Persian caravans. Luxury spread itself, and was fed with new objects; industry, encouraged by the gold and silver of America, brought all the arts to perfection, and created new ones.

The hanse-towns had now begun to decay. Their situation on the sea and large rivers, which at first was the cause of their flourishing, became afterwards the occasion of their ruin. For their distance, which enabled them to render their commerce more extensive, hindered them from assisting one another when attacked by their enemies. This association, consisting of 72, and some say of 80 cities, had been formed at a time when the princes enjoyed but a precarious authority in their dominions; but, in proportion as they increased in power, they commanded the hanse-towns in their territories to withdraw from the union. This immediately separated from them all the cities of England, France, Spain, and Italy. The more the hanse-towns perceived themselves weakened, the less they were united together; and being desirous, one at the expence of another, to repair the losses caused by their decay, they hastened their ruin. This society almost undone by their quarrels, which the Flemish and Dutch had wisely availed themselves of, lost all hopes of retrieving their commerce, when they saw it carried on by the most potent nations themselves.

There are five branches of commerce in Europe. The home trade of each state in particular, the commerce of the Europeans among themselves, and the trade to India, to America, and to the coasts of Africa. It will not be amiss to make here a few reflections on so important a subject.

The home trade does not of itself enrich a nation, since, supposing no exportation, there is no money imported; it is however the most useful, and serves for foundation to foreign commerce. Without excellent laws on this part of the government, a kingdom languishes in the midst of the riches which should be the fountain of its strength and prosperity. Agriculture and all the other arts which are in the hands of the country people, deserve the particular attention of the legislature: by encouraging them, industry, riches, and people are increased and abound, and consequently the society becomes capable of forming the greatest enterprises. If, on the contrary, the circulation is not free in the provinces of a state, nature's bounties will be there spread in vain; the products will be spoiled for want of consumption, and plenty will be dreaded almost as much as a scarcity; and men will labour less in order to sell dearer. It is easy to see how many evils must result from this capital error; by reflecting on the intimate connexion between all the branches; but this is not the place to enlarge upon this subject, how interesting soever it may be, nor upon the means used by political states, to promote inland commerce.

Want binds all the nations together. From the north are brought timber to build, pitch and tar, corn, wax, furs, &c. France affords wine, brandy, salt, &c. Spain, England, in a word, all the states of Europe have some particular products either from nature or industry. Properly speaking, the nation in favour of which the balance of trade should incline, is that which inhabits the most fertile climate. And yet Holland has immense treasures, the fruit perhaps of the most extensive trade in the world, though the produce of its lands cannot maintain the eighth part of the inhabitants, and, wanting the most necessary things of life, it has only butter, cheese, and a little coarse wool. What makes well for Holland is, that, far from improving their advantages, most nations live in a profound ignorance of their interests, and have their hands tied up by idleness, which is the effect of the bad constitution of their government.

The Hollanders profit by the fertility of all the countries to which they extend their commerce and navigation. The riches which a nation knows not how to use become their own. They import and work up at home, silks, wool, thread, cotton, hair, and generally all the materials which can be used in manufactures. Their towns are rich magazines, where they have the art of collecting all the particular commodities of the several states of Europe. They gain

by



by the wine and brandy of France, by the corn of Poland and Livonia, by the timber of Norway and Russia, by the copper and iron of Sweden, by the wool of Spain, by the silk of Italy and the Levant, &c.

The industry of the Dutch would soon cease to enrich them if all the nations, of whom they are the factors or carriers, should follow the prudent example of England. In 1660 the parliament made a regulation, the wisest that can be devised to increase and extend their commerce. By the act of navigation then passed, no goods are to be imported into, or exported out of any of the British dominions, in any other ships but such as belong to England or Ireland. All the articles of this act tend to one single point, namely, the prohibition of the British ports, either in or out of Europe, to all foreign ships not freighted with the merchandizes wrought or unwrought of the nation.

If France, much richer in itself, had taken the same course, what immense riches would she possess? But at the same time that England was combating all obstacles, and by the encouragement of navigation forcing the English to carry on their commerce themselves, the French neglected their most judicious maxim, and made foreigners partners in their trade.

In the reign of Lewis XIII, the importation of all merchandizes detrimental to the manufactures of the kingdom was prohibited. The foreign traders could vend their goods only at fairs, or at certain fixed places; precautions were taken to hinder frauds under a borrowed French name, and by an edict of that prince some foreign merchants were obliged to freight their ships with commodities of the growth of the kingdom to the value of those they had sold. The exportation of the first materials was forbid on severe penalties, and the importation of the same promoted by lessening the duties. Above all things, it was not permitted to freight in the ports of France any foreign vessels for the exporting of merchandizes.

The commerce of France was interrupted during the long wars ended by the Westphalian and Pyrenean treaties. Instead of restoring it at the peace by encouraging navigation, which had likewise much suffered, the prohibition to foreigners to freight in the ports of France was taken away. The goods and wares wherewith the kingdom was overstocked, were profusely exported; and it was thought a very politic thing. But this transient advantage produced a mischief which was long felt. The merchants were used to see  
foreign

foreign ships laden with their goods, and were become only mere factors; deprived of the profits of freight, their fortunes diminished; they purchased cheaper the merchandizes and wares of their fellow-subjects, and sold them in less quantities. It is easy to perceive what a terrible blow this was to the nation: the price of lands fell; manufactures were discouraged; shipwrights and sailors, becoming useless, went into the service of foreign powers, and enabled them more surely and longer to take advantage of the errors of France.

The permission granted to foreigners to freight in the ports of France should have lasted only till ships had been built or purchased, but the ministry perceiving the merchants had settled matters according to their situation, and dreading perhaps the impossibility of restoring navigation without a great expence to the king, they thought not of reviving the old regulations; on the contrary, they confirmed the grievances by settling this custom of freight at fifty sous a ton. The balance of trade, however, was still on the side of France; and it was that which deceived a ministry, not so clear-sighted as the present managers of this important branch of the government. It was concluded from thence that the administration was judicious, whereas it should only have been inferred that the natural advantages of France over her neighbours were such as to enable her to commit errors with impunity.

The speediest and most certain way to increase the commerce of a state is to cause navigation to flourish. In vain are the wisest laws made encouraging manufactures and the cultivation of the lands, if there are not merchants always to export the overplus of the goods and commodities. A nation who stays to sell till purchasers come, must often be overstocked with wares, and consequently neglect a manufacture which is not rewarded. If the truth of this is questioned, the Memoirs of John de Wit may be consulted. That great man ascribes to the Dutch fishery, not on account of its profits but because it is the soul of their marine, all their resources to free themselves from the dominion of Spain, to conquer the Indies, to form their commerce, and to acquire the regard they enjoy in Europe.

After the mention of the advantages of navigation relating to trade, it will be proper briefly to examine the maxim which says, He that is master at sea, will be so at land. This sort of axiom was formed about three thousand years ago in Greece, during the war against Xerxes. Every



one knows that under the conduct of Themistocles the Athenians equipped a large fleet which defeated that of the Persians. Xerxes, who could not possibly make a descent on the coasts of Peloponnesus, whilst this army was besieging the Isthmus of Corinth, despaired of subduing the Grecians. He was ever afraid that, after they had made themselves masters at sea, they would cut off his retreat by breaking down the bridge over the Bosphorus, and hastily retired into Asia. Greece was delivered from the impending danger, and, owing her safety intirely to her marine forces, was convinced of their importance.

It was natural for the Grecians to consider the sea that parted them from Asia, as a barrier against the Persian king; but this barrier was of no service, unless it was covered with ships. Besides, Greece being composed wholly of islands and maritime republics, that state whose marine was flourishing, must necessarily have exercised a kind of dominion. This was enough to give authority to the maxim in question.

It was no less true with respect to the Romans, when their ambition led them to extend their power beyond Italy. How could these proud conquerors have subdued the isles of the Mediterranean, triumphed over Spain, Carthage, Greece, and established their empire in Asia, if their fleets had not been superior to those of their enemies? Would it have been possible for them to preserve their conquests, if some power by becoming master of the Mediterranean had cut off their communication with their provinces?

The Romans therefore were in the right to adopt the political axiom of the Greeks. But is this maxim also true, in regard to the moderns? The respective situations of the powers of Europe are very different from that of the Grecians, or of the Roman republic with respect to the countries out of Italy. And indeed, during the three centuries in which the marine has been increasing in Europe, actions at sea have never decided the fate of wars. The taking of certain places and decisive battles which have laid open whole provinces to the conqueror, is what now-a-days determines the destiny of states, and what will continue to do so, as long as by their situation some powers who have the chief influence in the affairs of Europe, will not concern themselves about what passes out of the continent.

The dominion of the sea would give universal monarchy to a nation, but it must be a dominion like that of the Romans over the Mediterranean, and which is impossible now  
when

when our navigation, as extensive as theirs was confined, requires an infinitely greater expence. What nation can have ships and sailors enough to rule all the ocean, and, like the Romans, oblige other states to keep but such a number of ships? On the contrary, in the present situation of things, the dominion at land must lead to that of the sea; and it may be advanced as an undeniable truth, that it is the fault of the most powerful nation at land, if it is not also the most powerful at sea.

If the superiority at sea does not lead to universal monarchy, it procures at least great riches, and enables a state to carry on their trade with equal success in war and in peace. A nation that equips large fleets, is a neighbour to all other states: they can, at pleasure, make themselves feared, loved, and respected; and, their alliance being preferred before that of a state more powerful in itself, they will often act a more considerable part in the affairs of Europe.

Before Columbus had discovered America, and the pilots of Lisbon had doubled the Cape of Good Hope, the Portuguese had made rich settlements on the coasts of Africa, which extended from the kingdom of Gualata to the country of Casraria. In India, they built forts in Soffala and on the coasts of Zanguebar, and took the island of Mosambic. They remain masters of these last conquests which open to them the rich trade of Monomotapa and Abyssinia; but they were forced to suffer other Europeans to have forts in Guinea and Congo.

Africa, the inland parts of which are not known, is inhabited by most barbarous and ignorant nations. The African trade is the more advantageous, as, in exchange for wine, brandy, silk and woollen stuffs, linnens and iron wares, it produces gums necessary for dying, drugs, hides, wax, ivory, ebony, cloves, gold, silver, and slaves.

What riches soever Guinea, Monomotapa, and the kingdoms of Soffala and Zanguebar spread among us, Africa is still more advantageous by the traffic of slaves, which is carried on from the river Senega to Banguela Nova. Without the slaves, which the Europeans buy and convey to America, they would be forced to abandon the provinces they possess in the new world. By the negroes alone it is that the mines are worked, the lands cultivated, the sugars made, tobacco prepared, and consequently they are the soul of the richest commerce of Europe.



One of the greatest advantages of the negro trade is neglected. Many states want men to cultivate lands, and work manufactures; why, therefore, do not the princes of Europe permit their subjects to purchase slaves in Africa? Whatever the lot of these wretches might be, it would not be so hard here as in the West-Indies. In devoting them to the lowest and most laborious functions of society, they would fare no worse than our freemen who are obliged to that service, and who might be put to better uses.

The objections that are urged against slavery, do not deserve notice. Since it is allowed in the American colonies, there is no reason it should not be permitted among us, when policy, which knows its utility, shall establish the custom. Yet it not be thought a degrading of humanity to have slaves; the liberty which every European thinks he enjoys, is nothing more than a power to break his chain and choose a new master. Want makes slaves, and they are the more unhappy, as no law has provided for their subsistence. What really debases mankind is beggary, which is necessary only to nations where there are none but freemen.

This subject shall be concluded with shewing in part the advantages that would accrue to a kingdom like England or France. It is certain, the merchants, taking slaves of Guinea in exchange for the wares of their country, would promote agriculture no less than manufactures. In the next place, the sale of their negroes at their return would open a new way of circulation; it would multiply the contracts of sale, and consequently the profits of the subjects, because every bargain supposes an advantage to the buyer and seller. The negro trade would produce new riches in the state. The Africans are known to be robust, dexterous, and intelligent; their owners would make an advantage of these qualities, and put them to learn profitable trades. From hence would result two great benefits; the first, that the manufactures would no longer flourish at the expence of agriculture, from which they always take the necessary hands; the other, that the manufacturers, selling their wares at a lower price than at present, would ease the people and enlarge their sale.

It is impossible to calculate all the advantages which would be produced from the establishment of slaves. What lands, now lying waste, would be cultivated? What undertakings, which the expence renders impossible, would become easy? But no more shall be said of a scheme which perhaps after all will be deemed a chimera.

In 1498, the Portuguese, after having surmounted all the obstacles

obstacles on their way to India, arrived on the coasts of Malabar. The escaping of the dangers of the sea was nothing, in comparison of the dispossessing of the Mahometans of the commerce of Asia of which they were masters; settlements were to be conquered and kept; the Indians to be intimidated and flattered; and, to say all in a word, confidence was to be inspired by making of conquests. This by the prudence and courage of the Portuguese was accomplished. They built forts in the places most convenient for their purposes, tamed the inhabitants of some countries, intimidated others, and acquired at last the dominion of the Indian ocean.

Portugal, perhaps, would enjoy the fruits of their labours, if it had not become a province of Spain after the death of king Henry. Compelled to take part in the obstinate wars excited by the revolt of the Netherlands, all its parts were shut up to the Dutch, and, in their despair, these growing republicans attempted to go themselves to India for the merchandizes, they could not purchase at Lisbon: an example which was quickly followed by other nations.

The Dutch found the Indians well-disposed to receive them, and were looked upon by them as deliverers. The revolution was sudden. The Hollanders subdued the Molucco islands; and, without mentioning their other settlements, it suffices to observe that they were become so powerful in India, in 1609, that Philip III, who despaired to drive them from their conquests, permitted them, by treaty, to continue their commerce in all the seas, and on all the coasts where they had, till then, carried it. The war was renewed, in 1621, and the Dutch retained their superiority till the year 1640, when the Portuguese threw off the Spanish yoke, and proclaimed the duke of Braganza king.

Not being enemies of the United Provinces, because they had been subjects of the king of Spain, they speedily sought the friendship of the Dutch; but, instead of a lasting peace, they obtained only a truce of ten years, during which each party was to remain possessed of what they held in India. It was difficult faithfully to observe the articles of the treaty. The Dutch were used to consider Asia as their demean; they were afraid, their dominion was not secure, so long as the Portuguese hoped to share it; and it behoved them to increase their forts before the English and French, whose credit daily gained ground in India, were firmly established. The circumstances were the most favourable to complete their work; the hatred of the Indians



to the Portuguese was not to be suffered to cool, and besides it was not likely, that the Portuguese, taken up with their liberty and their new king, would mind any other affairs. However, the court of Lisbon exclaimed against the treachery of the Dutch, and declared war against them. The Portuguese drove them out of the Brasils; but they lost almost all their settlements in India. The Dutch, raised upon their ruins, have ever since been the most considerable power in that part of the world.

The commerce carried on by the Europeans in those rich countries is ruinous of itself. We go thither to fetch silks, cottons, spices, china, &c. but as it is not in exchange for ours, that the Indians give us their goods, there arise from thence two disadvantages; we hurt the progress of our manufactures, and we lose every year a great part of our silver and gold, which is amassed in the Indies, and never returns. Probably, Europe, which is exhausted at last, would learn to live without the superfluities of Asia; but America, which very fortunately was discovered about the same time that the Portuguese doubled the Cape of Good Hope, sends us more silver and gold than we export to the Indies, and enables us to gratify our luxury at a dear rate.

This commerce would soon be reduced to nothing, and become a charge to the states which carry it on now with the greatest success, if all the nations of Europe should trade directly to India, or if those, who cannot send their ships thither, for want of stock, or because they have by some treaty renounced that privilege, could prohibit the use of the Asiatic commodities. It appears, at first sight, that they should resolve at once upon one or other of these two courses, in order to reap themselves the profit which is made by retailing to them what they want, or to banish a luxury which must drain them by degrees. But let it be remembered it is the interest of many nations to make use of Indian wares, though they have them not from the first hand, because they buy them cheaper than the manufactures of their neighbours, which they cannot be without. In the next place, should every state to whom they are necessary, attempt to trade themselves, they would find themselves disappointed of their expectations. The expences would swallow up the profits, and the merchandizes of Asia would come dearer to them than by purchasing them from the warehouses of England, Holland, or France.

The states who have ingrossed the whole traffic of the East-Indies, will constantly oppose all others from having  
a share

a share in it. They should not, however, consider, as a misfortune, a revolution that should intirely ruin that trade. It is true, one of the fountains of their treasures would be dried up, but the others would become the more full. The less goods the English, French, and Dutch imported from India, the more of their own would be sold, and the profits from thence would make them ample amends for the loss of the Indian commerce.

There is no need to speak of the several companies which trade to the Indies. It shall only be remarked, that the Dutch have in those vast countries many advantages over all other Europeans. Independently of the places, they possess in the most convenient situations of India, and on the coasts of China; Japan is open to them alone. They are become so powerful in those seas that all the trade from port to port is in their hands. They are masters of all the countries where cinnamon, nutmegs, and cloves grow; and these spices, much more used in Asia than in Europe, serve them instead of silver and gold, which the English and French must have to make their purchases.

What has been said of this commerce of India is applicable to that of Persia and China. For that purpose it may not be amiss to mention the grand projects of Peter the Great, Czar of Muscovy. This monarch intended to establish by the Caspian sea a trade with the northern provinces of Persia, and to form a general magazine at Astrakan, from whence the merchandizes might be conveyed to Petersburg by the Volga, and by some canals which would make a communication between that river and the Volchoiva. Pursuant to still more extensive views, he thought of settling a correspondence between Petersburg and Pekin. It must be owned, greater or more noble designs cannot be devised, but is the execution of them possible?

If the memoirs, composed on this subject by persons of knowledge, are to be credited, the communication is easy between Petersburg and Astrakan. All the riches of the provinces bordering on the Caspian sea, such as silks, colours for dying or painting, medicinal drugs, rhubarb, fena, all these are conveyed from Astrakan to the Russian metropolis at an easy rate; and the Russians might have the larger vent of these commodities, as they would sell them cheaper than the merchants of Smyrna and Constantinople, who vend them for the Armenians. On the other hand, the scheme of a traffic by land from Moscow to Pekin must be deemed a chimera. The way from one of these cities to the other



is immense. Deserts or countries inhabited by barbarous nations must be crossed. What commerce is so gainful as to furnish the expences of the caravans to convey to Muscovy the merchandizes of China?

America is rather the treasure of the Europeans. Here they find a quick and sure vent for all their goods and all their commodities; they are paid for it ready money or exchanged for cocoa, indigo, cochineal, or other precious effects. We do not permit the Americans to cultivate our arts and to live without us. The more their country, of which we know little, besides the coasts and the sides of the great rivers, civilized, the more extensive will be the European trade: even at this time, it would be much more advantageous, if the nations who have colonies in America, conducted themselves by wiser principles.

The Spaniards possess the richest provinces of America, masters of all the silver and gold of the new world, they would have been in condition to give law to Europe, if instead of enjoying Mexico, Peru and Chiti, as so many de-means; they would only have formed settlements which would have thrown out their hands the whole trade of those kingdoms. Spain, very populous before the expeditions of Cortez and Pizaro, has weakened itself to conquer and preserve its American possessions. The Spaniards flocked in crowds to a country where fortune is lavish of her favours. The court of Madrid themselves countenanced these trans-migrations; but they perceived at last, that Castile and Ar-ragon, when stocked with people were a more precious trea-sure than the mines of Peru and Chili.

In truth, the fields in Spain were deserted, the manufac-tures decayed, and the arts ceased to be cultivated. In this situation, of what benefit to the Spaniards are their Ameri-can possessions? The English, the French, and the Dutch carry on the trade in their name, and of all the treasure that comes to Cadiz there remains to Spain only the sums levied by the king for his indulto, and given to the natives of the country, who lend their name for the commerce. But it must be observed that all this money and the sums which come to Madrid, otherways than by trade can hardly pay for the foreign goods and wares, which the Spaniards con-sume and are obliged to purchase.

It is commonly said to be a happiness for Europe that Mexico, Peru and Chili, are possessed by so idle and indo-lent a nation. This is an undeniable truth. But it is added, that if an active and stirring nation like the French, English, or Dutch, had subdued these kingdoms, they would make

themselves masters of all the riches of the old and new world; and establishing their grandeur upon that foundation, they would quickly conquer their neighbours. This does not so plainly appear. In the first place, it would be a silly undertaking to desire the conquest of the Spanish dominions in America: the late Abbot du Bos has plainly demonstrated this proposition. In the next place, suppose this conquest is made, suppose the Spaniards are driven from all their maritime places, and the conqueror has penetrated into the country and subdued the Americans. On this supposition, they who have any knowledge of the government of the Spaniards in the new world, of the state of their forces and the nature of the country will agree that such an undertaking will cost the victorious nation prodigiously dear. There will be a necessity to keep the vanquished under, and not to see a revolt in their new empire, as many troops at least must be sent as the Spaniards actually have there. Now it may be asked, what power would not be drained by such successes? The conquest of the Spanish Indies will therefore ruin the nation that should make it, and would consequently cause no alteration in the affairs of Europe. For it little concerns trading states, that Peru, Mexico, and Chili, are in the hands of the Spaniards or any other nation, provided the possessors of those kingdoms are so weakened, that they cannot of themselves carry on the trade.

What would produce a great revolution among us is, if America should throw off the Spanish yoke and be governed by its own laws; very probably, the rebels to bribe the Europeans not to assist the Spaniards against them, would open all their ports and pour forth their riches; but this would be a transient prosperity. The Americans would soon have our arts, and manufactures; their lands would produce our fruits, and consequently having no occasion for our goods and merchandizes, Europe would sink again into the same state of indigence in which it lay about four centuries ago.

Happily there is not the least appearance of such an event, the dominion of the Spaniards as mild now as it was formerly terrible, is established over the natives of the country. The spirit and manners of the Spaniards have passed into America, and the government of Madrid is settled in such manner, that a viceroy of the Indies cannot think of making himself independent, though nature should have given him the ambition and talents of a Sylla, a Caesar, or a Cromwel. America was ever attached to its duty during the war of 1701, if there were in those vast kingdoms any seeds of rebellion, they sprung up doubtless at the time when two



princes were contending for the succession of Charles II. and when neither of them had an absolute authority. The inquisition is likewise a strong fence against revolutions; it accustoms people to think always the same way, and unites them by the same faith; and in a monarchy like the Spanish, where the prince holds in his hands all the forces of the state, divisions and troubles can arise only from difference of opinions in religion, who can say, that if the doctrines of Luther or Calvin should creep into Spain, they would not have the same consequences as heretofore in Germany and France.

Spain seems by the form of its government to be secured from all revolution. But there sometimes arise in the body politic unforeseen maladies, the rapid progress whereof no remedies can stop. History affords a thousand events, perhaps more extraordinary than the revolution in question; we ourselves were very near being witnesses of a remarkable one, if it is true; that in the distresses of the war of 1701. Philip II. resolved to abandon Spain to his rival, and go with his court to the West Indies, and establish the seat of a new empire.

By this short sketch upon trade, it may be perceived that it forms a too considerable object not to be necessarily regulated by laws. This is a thing of immense extent. Conventions of little importance will not be mentioned, such as can only cause processes among private persons and are cognizable only by the judges of the admiralty. But after a particular account of what concerns the common law of nations at sea, and the general terms which serve for a basis to all the treaties of trade and navigation, the mutual engagements shall be related, which the powers of Europe have entered into.

### GENERAL CONVENTIONS, CONCERNING TRADE AND NAVIGATION.

The merchant ships forced by a storm or other accident into a port, pays customs only for the goods they land, and are free not to unload but what they think fit. As to men of war, it is customary to settle the number of those that may enter into a port which number is generally six. However if a larger squadron is forced for some weighty reason to take shelter, the governor is to be informed of the place it intends to come to, the cause of its arrival, and the time it designs to stay.

Masters of ships, pilots, sailors, are not to be detained nor their ships and goods to be seized, by virtue of any general or particular order, on any account whatsoever of war

or otherwise, not even under pretence of being serviceable in defence of the country. The seizures however and arrests of justice in the usual forms for debts, bonds, and contracts are excepted.

In case of war, it is allowed to trade with the contending powers, with an exception of all contraband goods; by which are meant all things used in war, offensive or defensive; but not those things which serve for the sustenance and support of life. In general all commerce whatsoever is prohibited with a place besieged or blocked up.

A ship is not to go to sea without testimonials, passports, and certificates, declaring the name of the ship and its port, the habitation of the master or captain, the sorts of its cargo, the country from which it comes, and to which it is bound, that it may be known whether it carries any prohibited goods, and that frauds may be prevented. Generally a form is agreed upon for the testimonials, passports, and certificates, and who shall deliver them.

When one ship visits another, it must not come within gun-shot of the other, but send a boat with two or three men, to whom the master shall produce his passports, and testimonials, to which all manner of credit is to be given. If any prohibited goods are found, they shall be forfeited, but not the ship or the rest of the cargo, unless the master of the ship throw his papers over board, or refuses to lower his sails.

When the United Provinces were contending with Spain for their liberty, they published an ordinance declaring that every ship which should be met sailing to any port of Spain, should be good prize. No one complained of this conduct, either, because the most considerable powers of Christendom were at war against Spain, or because the vessels of the States-General respected the ships of the nations, who were able to avenge themselves of any violences committed against them. The 22d of August, 1689, England and Holland signed a treaty at Whitehall, by which they agreed to notify to all the States who were at war with France, that they shall attack and declare as good prize, all ships going or coming from any port of that kingdom. The neutral powers thought this treaty contrary to the usual customs. The Swedes and Danes, some of whose ships were taken, complained of it in vain, but making a league the 17th of March, 1693, to obtain a speedy and just satisfaction, they were going to commit hostilities when the restitutions demanded were granted them.

It is prohibited to seize the contraband goods found in a ship, before an inventory is made by the judges of the admiralty,



## A P P E N D I X

unless the master consents to deliver them in order to pursue his voyage.

A nation may confiscate all the effects of a neutral power found on board an enemy's ship, if the lading was not made before the declaration of war, or within a certain term agreed on. These terms are a month for the Baltic and North Sea, from the Nar in Norway to the Channel; and six weeks from the Channel to Cape Vincent; from thence to the Mediterranean, and to the Equinoctial Line ten weeks; and eight months beyond the Line. In this manner it is generally agreed by England, France, Holland, Spain, and the Hanse towns. The northern powers assign other terms in their treaties, and all the difference consists in eight, twelve, or fourteen days more or less, according to the distance of the seas.

However if a cargo laden before the declaration of war is within the prescribed terms, contains contraband goods they are seizable upon payment of their value, or else the master of the ship shall bind himself to bring a certificate, to prove that he has not landed them in an enemy's country.

In the treaties of commerce, liberty is always granted to the subjects of the parties to carry all the merchandizes to one another's ports that are not prohibited by law, with a clause of forfeiture for the rest. The merchants are protected, and that they may not be molested, there shall be at the custom houses tariffs, or books of rates for all the duties upon imports and exports. They shall have liberty of conscience, and may make use of such lawyers, proctors, notaries, and solicitors, as they shall think fit, and may keep books of trade and correspondence in what language they please. If it is necessary that these books should be produced to decide any process, the judge shall take cognizance only of the articles concerning the affair in contest, or which serve to establish the credit of the books.

A prince always engages to forbid under severe penalties, all his subjects taking commissions or letters of reprisals, from any state at enmity with the power he is treating with. He promises also not to grant letters of reprisals, but in case of denial of justice; and this denial is not to be held valid, unless the petition of him who demands reprisals be communicated to the consul of the prince, against whose subjects they are to be granted, that he may justify or give satisfaction within such a time. The injuries or damages committed by private persons contrary to the tenor of the treaties, shall not diminish their force; but the offenders shall be punished and obliged to make reparation.

If a ship is driven by storm or otherwise on the coasts, whatever shall be saved of the wreck, shall be restored to the owners provided they pay the charges of salvage, and make their claim within a year and a day. Neither party is to receive pyrates or exiles, it is usual for the masters or commanders of an armed ship for war or cruise, to give security before they sail, to repair the damage that may be done by them whilst at sea contrary to the treaties.

In case of a rupture it is also agreed, that the subjects of the parties shall be allowed a certain fixed time after the declaration of war (generally six months) to retire and withdraw, or sell their effects; till the expiration of the term they are to enjoy full liberty.

Without this convention, which is of no long standing, the merchants would never be easy; at the least appearance of a war they would hastily withdraw their effects in order to avoid their ruin; and it is very visible how detrimental to commerce such interruptions would be.

What protection soever the trading powers grant their merchants, it falls very short of the end prescribed, by their interest. Why should two contending nations immediately prohibit all mutual commerce? this seems to be a relic of *Barbarism*, or rather the effect of a cowardly persuasion that the reception of the subjects of an enemy is dangerous. It is imprudent no doubt, to grant them in time of war, the same freedom they enjoyed during peace; but what inconvenience would there be for two nations, to allow one or more free ports for the merchants to resort to? the intention in prohibiting trade is to annoy the enemy, but surely the prohibiter does himself considerable damage; there is no state but what feels this want of circulation. The merchants are over-stocked with goods which decay in their warehouses, manufactures languish, and the manufacturers which make the riches of a country, are a charge to it; the products of the land are lost for want of consumption. Besides if the commerce turns upon necessary goods, it will continue in contraband, in spite of all prohibitions, and the states will find themselves disappointed of the fruit of their customs.

This grievance so fatal to merchants and so universally felt in its consequences, cannot be redressed, before another still more pernicious and which increases without necessity the calamities of war, be abolished; namely, the custom of exercising of piracy upon the merchantmen, the moment a war is declared. How is it that nations who, consider trade as the most solid foundation of their grandeur, and use so



many efforts to extend their correspondences, have not to this day discovered, how advantageous it would be to them, to agree upon some articles proper to secure the navigation of their merchants in time of war? Ask the Dutch, and the trading part of the English, Spanish, and French nations; and their answer will be the same. They behold with horror the privateers, and would with the greatest satisfaction hear the contending powers, would not for the future permit their subjects to exercise piracy, nor their ships of war to insult and take the merchantmen.

How advantageous this would be to the Spaniards and the Dutch, is visible to any one who is the least versed in these matters. And it would not perhaps be very difficult to prove, that it would be also the interest of the English and French, to suffer trade to be carried on under proper restrictions during war. But this would be too long a digression, and therefore to return to our subject.

It may be observed that the treaties of commerce may be ranked under two classes. The first class, which are not made for any limited time, are laws which cannot be abrogated without the mutual consent of the contracting parties. The other class are particular conventions for a certain term of years, which lose all their force, if at the expiration of the term prescribed, they are not renewed by a fresh treaty. Of these there will be no farther mention at present, but the first class shall be fully handled in the following sections.

**PORTUGAL, RELATIVELY TO ENGLAND,  
TO THE UNITED-PROVINCES, TO SPAIN,  
AND TO FRANCE.**

The subjects of England and Portugal shall be treated in one another's countries as the natives. They shall enjoy all the privileges and franchises that shall be granted to the most favoured nation. The English shall trade with all sorts of merchandizes in all the dominions, the king of Portugal possesses in Europe.

Art. 3. 4.  
15.

This treaty concluded at London in 1642, between England and Portugal, was made as appears by the date when the Portuguese had thrown off the Spanish yoke. If the union of their crown with that of Castile, was the cause of the loss of a great part of their settlements in both the Indies and in Africa; it may be said that the revolution which advanced the house of Braganca to the throne, completed the ruin of their trade. To gain friends, the king of Portugal made treaties contrary to his interest, and his allies afterwards taking advantage of his distresses, stretched not to stretch their privileges far beyond the bounds they had agreed on.

‘ The papers, accounts, merchandizes, and other effects of the subjects of England dying in the dominions of Portugal, shall not be seized by the judges of the orphans and absent, but they shall be remitted to factors or merchants who shall return them to the lawful heirs, or those that have a right to them.

Art. 13.

‘ The English (by which word is meant, all the subjects of the king of England, except those who are settled in their colonies) shall continue to trade freely in the lands, places, castles, ports, and coasts of Africa, Guinea, Binea, the Isle of St. Thomas, &c. where it shall be proved that they had any traffic in the time of the kings of Castile and at present, and they shall pay no higher duties than the allies of Portugal.

Art. 11.

‘ The English shall be allowed to continue their commerce with the enemies of the Portuguese, and to carry arms and war-like stores, provided they do not take them from any port of Portugal.

Art. 17. 18.

‘ The English shall not be molested on account of religion in the territories of his Portuguese majesty, but they shall behave with prudence and reserve. In case of a breach between the two parties, neither the persons nor goods of the merchants shall be seized. Both sides shall be allowed two years to sell, or withdraw their effects, and to retire where they please.

‘ The king of Portugal promises in his own, and the name of his successors, to admit for ever hereafter, into Portugal the woollen cloths, and the rest of the woollen manufactures of Britain, as was accustomed till they were prohibited by the laws, nevertheless upon this condition, that the wines of the growth of Portugal shall be admitted into Britain, so that at no time (whether there be peace or war) any thing more shall be demanded for these wines by the name of custom or duty, than what shall be demanded from the like quantity or measure of French wine, deducting or abating the third part of the custom or duty.

This short treaty consisting of three articles was concluded at Lisbon, the 27th of December, 1703, between Great Britain and Portugal. Notwithstanding this treaty, it was agreed by queen Anne’s ministry in their intended treaty of commerce with France, that the duties on French wines should be no higher than those on Portuguese wines, by which means the trade of England with Portugal would have been entirely ruined. But the treaty was rejected by the parliament.

T. Hag.

Por. Hol.

‘ The subjects of the United-Provinces shall enjoy all over Portugal, the rights and privileges granted to the

‘ En-



English, or that shall be granted hereafter by any treaty or by virtue of any custom whatever.

This treaty of the Hague the 6th of August, 1661, between Portugal and Holland has been spoken of in the third chapter; by it was ended the war which the Dutch declared against Portugal, after having been driven out of Brasil.

The United Provinces shall be free to carry on in Brasil all sort of commerce except Brasil wood. Ibid. 3.

Brasil wood belongs to the king of Portugal, who alone trades in it and gains by it a large yearly sum. The commerce of Brasil is carried on by the Portuguese vessels. Foreigners are not suffered to send ships thither, and the king cannot even grant them that privilege since his treaty with Spain, at Utrecht in 1715. The Europeans that send their goods to the bay of All Saints, to Pernambuco, or to Rio Janeiro, are obliged to load them in the ports of Lisbon or Oporto, and to borrow the name of some Portuguese merchant.

The Dutch were not much concerned at being deprived of the liberty of trading directly to Brasil without passing by Portugal. They reaped no advantage by it, not only because the freight paid at Lisbon and Oporto for the passage of the merchandizes to Brasil, is a trifle. The Portuguese give their sailors very small wages, and they live at sea with great sobriety, which enables them to send their goods much cheaper to the colonies than foreigners could do.

The king of Portugal consents that the Dutch shall trade in all the places of Africa, where the English have extended their traffic. They shall be allowed to settle there and have houses and magazines. Ibid. 4.

The Dutch shall trade with all sorts of merchandizes in the kingdom of Portugal; they shall be treated as the natives, and shall pay no higher duties for exports and imports than what is customary in May, 1753. The Portuguese shall enjoy all the privileges allowed to the subjects themselves of the states-general. Ibid. 7. 2x.

The Dutch shall not be *Aubains* in the dominions of Portugal, that is to say, in case of death their effects shall not be seized by the judges of the orphans and absent.

The conditions stipulated by the English and Portuguese in the 11th, 17th and 18th articles of the treaty of London, shall be agreed upon in favour of the Dutch in the 12th, 15th and 16th articles of the treaty of the Hague.

The Portuguese shall enact no contributions of the Dutch for the maintenance of the chapel of St. George.

The commerce shall be settled between Spain and Portugal on the same foot, it stood before the re-union and in

T. Lif. Sp.  
Por. 1668.  
3. 4.

the

## A P P E N D I X.

the reign of Don Sebastian. The Portuguese shall enjoy in the Spanish territories in Europe, all the privileges granted to the English by the treaty of Madrid the 23d of May, 1667. The Spaniards shall not be treated less favourably in the kingdom of Portugal.

This treaty of Lisbon the 13th of February, 1668, between Spain and Portugal, put an end to the war, which the Portuguese had waged since 1640 for the recovery and defence of the liberty.

T. Utr. Sp.  
Por. 13.

Spain resigns to the king of Portugal the colony of the Sacramento, situated on the north-side of La Plata, on condition that he will not suffer there any foreign commerce. The Portuguese shall not trade in any manner with the Spanish America, nor countenance the foreigners who should send thither any merchandizes.

Ibid. 17.

The treaty of Lisbon of the 13th of February 1668, shall be maintain'd in full force.

The king of Portugal grants to the merchants of Spain, and the king of Spain to the merchants of Portugal, all the advantages and privileges hitherto granted or that shall hereafter be granted to the most favoured nation. The two kings reserve to themselves alone and for their subjects, the right of trading in their respective dominions both in the Indies and in America, excepting the Asiento-contract concluded between Spain and Great-Britain, the 28th of March, 1713.

In case of a breach between the two crowns, their respective subjects shall be allowed six months to withdraw their effects where they please.

T. Utr. Fr.  
Por. 5. 6.

Trade shall be carried on in France and Portugal in the same manner as it was before the war of 1701, and the same privileges which the French enjoy in Portugal shall be granted to the Portuguese in France.

The 1st of June 1641, Lewis XIII. and John IV, king of Portugal, concluded at Paris a treaty of alliance, wherein it was stipulated in the 7th and 8th articles, that commerce should be settled between the two nations upon the same foot, it was in the time of antient kings of Portugal, and that their subjects should export respectively from their dominions, all the goods and merchandizes they should want, paying only the same duties as were paid by the most favoured nation.

Ibid. 13. 6.  
25.

The king of France engages not to suffer his subjects of La Cayenne, or others to trade in La Maragnan, or in the mouth of the river of the Amazons; he shall forbid them to pass the river of Vincent Pinson. On the other hand,



hand, all commerce in La Cayenne shall be prohibited to the Portuguese.

For the convenience of their trading subjects the parties shall settle consuls to one another's kingdom, with the same privileges and liberties as those of France used to enjoy in Portugal.

In case of a breach between the French and Portuguese, they shall have six months to withdraw their effects and retire where they think fit.

SPAIN, RELATIVELY TO THE UNITED-PROVINCES, TO FRANCE, TO ENGLAND, TO THE COURT OF VIENNA, TO TUSCANY, TO THE HANSE-TOWNS.

The Spaniards shall keep their navigation to the East-Indies, in the same manner as they hold it at present, without the power of extending it farther; and the merchants of the United-Provinces shall not frequent the places which the Castilians have in the East-Indies.

T. M. Sp.  
Hol. 5.

This is part of the 5th article of the treaty of Munster, in 1648, between Spain and the United-Provinces, which deserves a particular attention. The maritime powers alledged it as an inconsistent bar to the emperor Charles VI, when he attempted to establish in the Austrian Netherlands an East-India Company. The emperor at first was satisfied with giving leave to some Flemish and Brabant merchants to go and trade to the Indies at their own peril and fortunes. This made the English and Dutch very uneasy; but the loudest complaints came forth, when by his letters of grant, the company was going to be firmly established.

It is certain, the emperors pretensions were not well grounded. It had been stipulated in the treaties of Utrecht, and in that of the Barrier concluded at Antwerp, in 1715, that the emperor should possess the Spanish Netherlands only with some rights and privileges, as Charles II. had enjoyed them. Now Charles II. could not in his demerits establish an East-India company; how then could his successor assume such a privilege?

Though Charles VI. could have justly defended his East-India company, it is probable, such an establishment would have kindled a war over all Europe. On this occasion, the conduct of the English and Dutch may be remembered,

bered, when Denmark attempted in 1728 to form a new East-India company at Altena. The maritime powers forbid his subjects to be concerned in the scheme, and considered it as a rupture on the part of the Danish king; they notified to him that, 'the establishment of an East-India company at Altena was prejudicial to the trade of England and Holland, and very repugnant to the rules of friendship, and to the regard which princes and states are wont to have for each other.' It was added, that 'the king of Great-Britain and the states-general would not dispense with opposing this establishment by all the just means consistent with the law of nations. But they hope that his Danish majesty, according to his great wisdom and equity, will reflect on the inconveniencies which result from his undertaking, and which might create fatal misunderstandings.'

T. M. Sp.  
Hol. 6, 8.

'The Dutch shall forbear sailing to or trading in the means of the king of Spain out of Europe, whether the places are fortified or not. All commerce is equally prohibited to the Spaniards or the coasts in the harbours, ports and places possessed by the Dutch in the Indies and in America. The Spaniards consent likewise not to traffic in the places of Brasil, which the Portuguese (in 1641) took from the Dutch, and which they now hold, so long as they shall continue in the hands of the Portuguese.'

T. Utr. Sp.  
Hol. 14.

'The subjects of the king and the states trading in the dominions of either, shall not pay higher duties than are paid by the natives of the places. The imports established by the court of Madrid, during the twelve years truce shall be established.'

The 3d of July 1667, the Dutch merchants obtained the privilege of carrying into the dominions of Spain all sorts of India goods and merchandizes, after proving they came from their conquests, factories and colonies. It must be observed, the treaty of Munster does not regard only the kingdom of Spain, but also all the provinces that were taken from it by the peace of 1713, and which are possessed by the court of Vienna and the king of the two Sicilies. The following articles relate only to the commerce between Holland and the demesns of the house of Austria in the Netherlands.

T. M. Sp.  
Hol. 9, 10.

'The king of Spain and the states-general shall not levy beyond their respective limits any duties or gabels for export or import, on any other account upon goods in their carriage by land or water. Their subjects shall continue

to



to enjoy the same immunity from tolls, they were possessed of before the beginning of the war.

The king of Spain shall take off all the tolls along the Rhine and the Maese, which before the war were under the jurisdiction and within the district of the United-Pro-

vinces, and particularly the toll of Zealand; provided however that the proprietors of these tolls do pay the annual rents that were mortgaged before the year 1572.

White boiled salt imported into the king of Spain's dominions from the United-Provinces, shall pay no other duty than bay-salt; and salt carried from the Spanish provinces to those of the states-general that pay no more duty than their own.

The different branches of the Scheld and the canals of Gas and Zwyn and other inlets to them from the sea belonging to the states shall be shut up.

Ships and goods passing from the ports of London shall continue liable to the same duties as those pay which go up and down the Scheld or the forementioned canals.

The subjects of the two parties shall behave with prudence and modesty to one another with respect to the public exercise of religion. Decent burying places shall be appointed by the king of Spain for the subjects of the United-Provinces, that shall die in his dominions.

An equal number of judges that be appointed on each side to reside in the Netherlands, sometimes in places under the states and sometimes in places subject to Spain. They shall have regard to their trade of the inhabitants of the Low-Countries, and to the duties which on both sides shall be laid upon merchandizes. This tribunal shall examine into the breaches of this treaty in the Netherlands and the rest of Europe; and summarily and fully determine therein; and their sentences and determinations shall be speedily executed by the ordinary judges where the breaches are committed.

The Hanse-Towns with all their inhabitants shall enjoy as to trade and navigation in the dominions of Spain all the privileges that are now granted or shall hereafter be granted to the subjects of the United-Provinces. And the inhabitants of the United-Provinces shall have the same rights as the Hanse-Towns have obtained for the establishing of consuls in the capital and maritime towns of Spain. They shall also enjoy all the immunities that the Hanse-Towns shall obtain after conclusion of this treaty.

The

The treaty here mentioned was concluded between Spain and the Hanse-Towns at Munster the 11th of September, 1648. It would be needless to say any more of it, as it contains nothing material besides the settling of consuls in the territories of Spain. The Hanse-Towns signed also a treaty at Munster the 3d of May, 1648. It runs upon objects of little importance.

Philip V. and the States-general confirmed in 1714, the treaty of Munster, in 1648, as may be seen in the 10th article between Spain and the United-Provinces.

T. Utr. Sp.  
Hol. 17. 22.

The merchants of the United-Provinces and their consuls settled in Spain, shall enjoy all the privileges granted to the English, the French, and the most favoured nation. The Spaniards shall have the same favour in the territories of the United-Provinces.

Ibid. 16.

When the subjects of the two parties that have once paid the duties of import according to the tariffs, they shall not be obliged to pay again in exporting their merchandizes from one province to another of Spain or of Holland.

Ibid. 29.

The king of Spain shall preserve to the subjects of Holland the power of having judges conservators in all the trading towns of his kingdom, where they had them in the time of Charles II. and even where other nations now have them.

Ibid. 25.  
26. 31.

The Dutch dying in Spain shall not be Aubains, their effects shall be remitted to their heirs. The subjects of the two powers shall inherit each other by will or birth.

The king of Spain shall not permit any nation of Europe to trade to his American dominions, and upon occasion the United-Provinces promise to aid him with all their forces against any power that shall attempt to trade thither.

It is not to be doubted that it is the interest of the king of Spain, that all commerce to the Spanish West-Indies should be carried on by the Way of Cadiz. By permitting foreigners to go directly to Mexico or Peru, he would be deprived of part of his revenue, and perhaps even shake the foundations of his empire in America. All the trading powers who treated at Utrecht with Philip, required the same stipulation as may be seen, in the 8th article of the treaty of Great-Britain, and the 17th of that of Portugal. It is feared that in time some extraordinary circumstance may happen which might authorize the ministry of Spain to think it convenient to permit some nation to trade to America.

This



This would be so great a misfortune that it has been deemed necessary to obviate it; however remote or even chimerical it may seem. Indeed, if the liberty of commerce to the Spanish West-Indies was granted to a nation, it is not to be questioned but that nation would in a short time engross the whole traffic and riches of Europe.

Spain has faithfully observed hitherto her engagements; but the same cannot be said of other states: it is known how many interlopers there are in the pacific ocean and the sea of Mexico. The English cannot conceal that their contraband trade in the West-Indies is the richest branch of their commerce. They strangely abused the permission of the South-sea ship, granted by the Asiento contract; and Jamaica is a general ware-house, from whence they clandestinely send their goods to the places where they have artfully got correspondents. The court of Madrid has often complained of this breach of the treaties without obtaining any satisfaction. The contests of the Spanish *gard de costas* and the contraband English vessels became a sort of open war, wherein excesses were committed on both sides. To stop the disorder, a convention was signed at Pardo in 1739, founded on the antient treaties, of which some articles were explained and commented upon. This negotiation was fruitless, the parliament of England disapproved of the convention of Pardo, all the nation exclaimed as if they had been robbed of one of their privileges; and the ministry, forced to give way to the torrent, declared war against Spain, the event of which is well known.

The commerce of the United Provinces and of the places held by the states-general in the East and West-Indies, shall continue upon the same foot as at present.

As to the trade of the Canary islands, the laws and customs established under Charles II. shall be observed.

In case of a breach between Spain and Holland, their subjects shall be free for one year to sell their effects or withdraw them where they please.

The subjects of France in all the dominions of Spain, and the subjects of Spain in France, shall be treated as the most favoured nation; paying only the same duties as the English and Dutch.

The parties shall have power to settle consuls in each others dominions.

The subjects of each party shall have liberty to sell, give, change, alienate or otherways dispose of, as well by deed as by will, goods, effects moveable or immoveable

that

T. Utr. Sp.  
Hal. 34. 36.

T. Pyr.  
6. 7. 26.  
22. 24.

‘ that they shall possess in the dominions of the other party.  
 ‘ Every one shall be free to purchase them, subject or not  
 ‘ subject, without any other permission whatsoever than the  
 ‘ present treaty.

‘ In case of war between Spain and Holland, six months  
 ‘ shall be allowed to retire with their effects.’

It is to be observed that the king of the two Sicilies, is bound by the Pyreanean treaty as successor of Philip IV. The same must be said of the empress queen of Hungary, who possesses in Italy and the Netherlands several demesnes, for which Spain has stipulated in the treaty of the Pyreanees.

At the peace, 1714, the plenipotentiaries of France should have expressly confirmed, in the treaties of Radstad, and Baden the Pyreanean, as the court of Vienna was bound by it. They were contented to do it implicitly, by agreeing that the subjects of the emperor and most christian king, should continue to enjoy, in point of commerce, all the privileges they were possessed of; as appears in the 34th article of these treaties. France and Spain settled nothing with respect to trade in the treaties of Aix-la-Chapelle, Nimeguen and Ryswic; they only revived the articles of the Pyreanean treaty.

‘ The English shall pay in the territories of Spain no  
 ‘ high duties of export and import than the Spaniards themselves, and they shall enjoy all the immunities and prerogatives granted to France, the United Provinces and the  
 ‘ Hanse-towns.’

This is the 5th and 38th articles of the treaty of Madrid, concluded the 23d of May, 1667, between Spain and England, which treaty they confirmed in the peace of Utrecht, 1713.

Mad. Sp.  
 Eng. 1667.  
 7. 8.

‘ The English shall be permitted to carry into Spain all  
 ‘ sorts of merchandizes of the growth of their kingdom and  
 ‘ of their colonies. They shall also traffic there with East-India goods, proving by the testimony of their East-India  
 ‘ company that they came from the English factories. As  
 ‘ to America and the other countries out of Europe and  
 ‘ subject to Spain, the same privileges are granted to the  
 ‘ English merchants as were granted to the Dutch by the  
 ‘ treaty of Munster.’

That is to say, the liberty of trading thither was denied them. This treaty of Madrid of 1667, was still more precisely expressed in a treaty between Spain and England, signed at Madrid the 8th of July, 1670, which ended the hostilities



ilities of their subjects against one another in America. It is there said that 'each king shall forbear to navigate in the ports, Havens, Roads, &c. which the other possesses in America.' But if a ship of one party is forced by a storm, or other accident, to seek refuge in the ports of the other, the crew shall be well received and provided with what they shall want.'

This treaty of 1670, is also confirmed by the treaty of commerce concluded at Utrecht between Spain and England. 'The Spanish or English ships in their respective dominions, <sup>Ibid. 10.</sup> shall not be visited by the judges of contraband, or by any other person whatever. No soldier or officer shall be put on board, till after the master of the ship shall have unloaded the merchandizes or declares he does not intend to land.'

This article has been cited as exempting the English from being liable to the search of the Spanish *guarda costa*, but it is an evident mistake. For it is plain that the question here is only about the countries where the trade is allowed.

It is the custom in England, that a foreign merchant pays <sup>Ibid. 3. T. Utr. 3.</sup> no duties of export when he reships the goods he has imported. He is also repaid half the duties of import which he has paid, if his return be within a year after his arrival, so every Englishman who having unloaded his effects in any place of Spain, shall load them again to carry them to any Spanish port without paying any duty.

'The consuls of the two parties shall be treated as those <sup>T. Mad. 27. 28. &c.</sup> of the most favoured nations. The English shall not be molested on account of religion; they shall have a burying ground in the principal cities of Spain, they shall not be liable to the law of *Aubaine*; and the Spaniards shall enjoy the same privilege in England. In case of a declaration of war between Spain and England, their subjects shall have six months to retire with their effects.

'The exercise of navigation and trade to the West-Indies <sup>T. Utr. Sp. Eng. 8. 9.</sup> shall remain upon the same foot as in the reign of Charles II. Spain shall not suffer any state to carry merchandizes to her American dominions, and engages not to resign, sell or alienate any part thereof.'

The inhabitants of Guipuscoa shall preserve their right of <sup>15.</sup> fishing round the isle of Terra-nova.

The Affiento-treaty comes under the second class of treaties, being only for 30 years, from 1713 to 1743, and therefore will not be enlarged upon here, nor the treaty of commerce

commerce concluded at Utrecht between England and Spain, nor that signed by the same princes at Madrid the 14th of December 1710.

The 13th of June 1721, the differences of Spain with France and England, were entirely ended by a treaty of peace and alliance concluded at Madrid. Philip V. confirms in the 6th article, all the privileges which the English and French enjoyed in his dominions by virtue of former treaties. The treaty of Seville of the 9th of November, 1729, in the 4th article makes the same dispositions.

The treaty of commerce between the emperor Charles VI. and the king of Spain, at Vienna, 1725, shall not be mentioned, as being annulled. The emperor renounced his Ostend company; the king of Spain on his part declared in the treaty of Seville, that in contracting with the emperor, in 1725, he did not pretend to derogate from his former engagements. Besides, this treaty is not confirmed in those of Vienna the 22d of July, 1731, and of the 18th of November, 1738. It may perhaps be pretended that the articles relating to the trade of the West-Indies remain in force.

‘The merchants of Tuscany shall be maintained in Spain, in the possession of the same immunities and privileges as those of the most favoured nations.’

This is the 5th article of the treaty of Florence the 25th of July 1731, between Spain and the Grand Duke.

FRANCE, RELATIVELY TO ENGLAND, TO THE UNITED-PROVINCES, TO THE CITIES OF LUBEC, BREMEN, HAMBURG, TO THE EMPIRE, TO THE HOUSE OF AUSTRIA, TO THE COURT OF TURIN, TO THE SWISS CANTONS.

‘The subjects of England may freely bring and sell in France all sorts of silk and woollen stuffs of their own fabrication. The French shall be allowed to trade in England, Scotland and Ireland with their wines and all sorts of wares of their own growth.’

T. West. S. This is the 5th article of the treaty of Westminster, concluded the 3d. of November, 1655, between France and Cromwell, who then governed England, in order to end some differences between the two nations concerning trade.

‘The French merchants shall not pay any more in the port



ports of England the duty called "head money," nor shall the English be liable to that called "l'argent du chef."

This same stipulation is inserted in the 8th article of the treaty of trade and navigation signed by Lewis XIV. and queen Anne at Utrecht the 11th of April, 1713.

The English sailing to Bourdeaux by the Garonne, shall not be obliged to take out their guns and arms at the castle of Blaye.

The English dying in France may dispose of their effects by will, gift or otherwise, without being liable to droit d'Aubaine.

The inhabitants of Jersey and Guernsey shall enjoy the same privileges in France as the French do in those islands.

In case of a war, the merchants shall have six months to settle their affairs and remove their effects.

By the 4th and 6th articles of the treaty of Breda, concluded the 31st of July, 1667, France and England agreed, that the liberty of trade and navigation should be established upon the antient foot, and that all the edicts and arrests, which one of the parties had published in prejudice of the other, should be annulled. The same engagements only were renewed by the treaty of peace, signed at Ryswick the 20th of September, 1697.

The king of France promises that he will not endeavour to obtain any usage of trade and navigation to Spain and the Spanish Indies, than what was practised in the reign of Charles II. or shall be granted to other nations.

This article is inserted not only in the treaty at Utrecht, 1715, between France and England, but also in that between France and the United Provinces.

The French shall be excluded from all kind of fishing in the seas, bays, or other places on the coast of Nova Scotia, that is, on those lying towards the east within thirty leagues, beginning from Sable island, and thence stretching along towards the south-west. They are likewise prohibited from settling in Newfoundland and the adjacent isles, which shall be long to the English. Only it shall be allowed to the French to catch fish and dry them on land from Cape Bonavista, round northward to point Riche.

The French of Canada shall give no molestation to the five nations of Indians subject to Britain: and the English shall behave peaceably to the Americans friends of the French; and on both sides they shall enjoy the liberty of going and coming on account of trade.

The Dutch West-India company agree, that the French India company may enjoy the isle and fort of Arquin as their property. The Dutch renounce all their pretensions, and resign to the French India company all their rights to the said fort and island.

This is the first article of the convention signed at the Hague the 13th of January, 1727. And in a resolution of the States-General of the 13th of April, in explanation of that convention, the Dutch declare,

‘ That by virtue of the cession made to the French company, the French may behave in the isle of Arquin as they please, that if they think proper to raze the fort and keep the island, it shall not be inferred from thence, that the island is abandoned by the French.’

‘ The Dutch agree to an exclusive trade of the French company on the coast of Africa, which stretches along from fort d’Arquin to beyond Porto Darco, that is, to the river Serrelione. The Dutch ships shall not land unless forced by a storm or some other unforeseen accident.

These are the 2d and 5th articles of the Hague convention, by the 4th article of which the French India company bound themselves to pay the Dutch West India company, the sum of 130 thousand guilders.

T. Utr.  
Fr. Hol.  
36,

‘ In case of a war, the subjects of France and the States shall have nine months to remove their effects.’

The treaties between France and the States concluded at Nimeguen, Ryswick, and Utrecht, contain nothing particular; they always took care to sign separate articles for the affairs of trade and navigation, which being only temporary are not in force now.

T. M.  
T. Ryf.  
T. Rad.  
T. Bad,

‘ The navigation of the Rhine shall be free for the subjects of the Empire and of France, no new tolls shall be imposed nor old ones increased; trade shall continue to be carried on in the adjacent provinces of this river, in the same manner as when Alsatia belonged to the house of Austria.’

Ibid.

‘ The Imperialists and French shall have liberty to sell, exchange, or otherwise dispose of the goods and effects moveable and immoveable which they possess in one another’s country; and all persons, natives or foreigners, may buy them by virtue of this treaty.’

‘ The inhabitants of the Imperial and Hanse-Towns shall enjoy in the dominions of France, the immunities granted them by treaties or established by antient custom.’

This



This is the 17th article of the treaty of Vienna of 1731, France and the Empire agreed to make a treaty of commerce after the ratification of the peace; but that affair was neglected.

The inhabitants and subjects of Lubec, Bremen, and Hamburg, shall freely trade in all the European dominions of France, and shall not pay higher duties for imports or exports than the French themselves. The French shall enjoy in the ports of the Hanse Towns, all the privileges and rights which are granted to their own citizens.

These are the 1st and 3d articles of the treaty of Paris the 18th of September, 1716, between France and these three Hanse Towns, from which treaty the following articles are taken.

The merchants of the Hanse Towns shall not pay the import of fifty sous a tun, laid upon foreign ships, except in case they load merchandizes from one port of France, to import to another of that kingdom. The French shall not pay the duty of freight called *Last Gheldt*, which is raised at Hamburg.

As for the Levant-trade in France, the Hamburgers shall not pay the 20 per cent. except in cases where the French themselves pay it. They shall have all the privileges that the king shall grant hereafter to the Dutch and the northern nations; they shall not be Aubains in France, but shall dispose by will or otherways of all their goods and effects.

As to the trade which the Hanse Towns may carry on in the time of war with the enemies of France, all the general conventions mentioned in the beginning of this chapter were agreed on.

The French captains and those of the Hanse Towns, armed for cruise or war, shall give, before they leave the port, a security for 15 thousand livres Tournois, to repair the damages they may commit contrary to the present treaty.

That a ship may be deemed to belong to the Hanse Towns, 1st, It must be of their own or the fabrication of a neutral nation, or purchased of an enemy before the declaration of war. 2dly, The captain, master, pilot, supercargo, must be natives of the Hanse Towns, or naturalized three months before the declaration of war. 3dly, Two thirds of the crew must be natural subjects of the Hanse Towns, or of some neutral power, unless they were naturalized before the declaration of war.

The

34.

‘ The ships of Hamburg, Bremen, and Lubec, shall strike their colours, and lower their sails when they meet the banner of France.’

‘ In case of a war between the Empire and France, the subjects of the Hanse Towns, shall be reputed neutral in regard to France, provided they obtain from the emperor the like neutrality for the French merchants who shall load in their ports.’

40.

This is the 1st separate article of the forementioned treaty of Paris.

‘ If a breach should arise between France and the Hanse Towns, their subjects of both sides shall have nine months to remove their effects.’

T. Rad.  
T. Bad.  
Fr. Emp.

‘ The navigation of the Lys, from the mouth of the Deule, in sailing up shall be free; no new tolls shall be established. The mutual abolition of the right of Aubaine with regard to the subjects of France and the Austrian Netherlands is confirmed.’

‘ The trade to Italy shall be carried on and maintained as it was settled before the war of 1688. In the kingdom of France, and in the states of the duke of Savoy, shall be observed what was practised in the reign of Emanuel II. both with regard to the road of Suza as of Savoy, of the bridge of Beauvoisin and of Villafranca. The French couriers shall pass as heretofore, through the demans of his royal highness, and shall pay the usual duties for the merchandizes they shall be charged with.’

This is the 6th article of the treaty of Turin, the 29th of August, 1696, between France and Savoy; and the 10th of the treaty of Utrecht between the same powers.

‘ The Swiss are reckoned as natives in France, they shall not be liable to the custom of Aubaine or of Traiteforaine\*. The French shall enjoy the same privileges in the Swiss Cantons, trade shall be free between them, the merchants of both sides may export the money they have received for their goods, provided however they make their declarations and take out passports, in order to avoid frauds.’

These are the 24th, 25th, and 26th articles of the treaty of the 9th of May, 1715, between Lewis XIV. and the Swiss Cantons.

The prohibition of exporting gold and silver money, is general all over Europe; and it may be said that there is not a more trifling or silly law. A little treatise of the famous Mr. Law, and the reflections of Mr. Du Tot upon trade, have exhausted this subject.

\* A duty upon certain goods imported or exported.



## E N G L A N D.

Relatively to DENMARK, SWEDEN, UNITED-PROVINCES,  
House of AUSTRIA, and the HANS-TOWNS.

In relating the engagements between England and Denmark, with regard to trade, reference shall be had only to their treaties of London the 13th of February 1660, of Breda the 31st of July 1667, and of Westminster the 9th of December 1669, from whence are taken the following articles.

‘ The subjects of England and Denmark shall be treated  
‘ in the dominions of both parties as the most favoured  
‘ nation; and the English shall continue to pay, for passing  
‘ of the Sound, the same toll as in the year 1650.

‘ The English that shall go to the Baltic through the  
‘ Sound, may defer the payment of the tolls till their return,  
‘ provided they give security to pay them three months after  
‘ their passage in case they do return.

The English shall not frequent the ports of Denmark and  
‘ Norway that are prohibited. The parties shall each have  
‘ magazines and consuls in the others dominions, and shall  
‘ not be liable to the right of Aubain.

‘ The Danes shall import into England, only goods and  
‘ merchandizes of their own growth, or those that come  
‘ from Germany by the Elbe.

‘ It is agreed, that Gottenburg in Sweden, and Plymouth  
‘ in England, shall be free ports, where the English and  
‘ Swedish merchants shall enjoy respectively the right of  
‘ staple, with all the privileges thereof. The Swedes may  
‘ import to Plymouth all sorts of merchandizes from the  
‘ Baltic and the maritime provinces of Sweden. The En-  
‘ glish may sell at Gottenburg all kind of wares except those  
‘ of the Baltic and Swedish provinces.’

This 5th article of the treaty of Stockholm the 26th of  
February 1666, between England and Sweden, is not prac-  
tised now, though it was never annulled. The foreign mer-  
chandizes pay so high duties in Sweden, that the English  
carry thither at present little else but wines, brandies, Spa-  
nish salts, and money in exchange for what they take there.  
The Swedes seem resolved to have nothing to do with all  
other nations. They have prohibited the importation of all  
sorts

forts of silk and woollen manufactures, and iron wares. This regulation is so strictly observed, that if a Swede should import any foreign stuffs, he would be condemned to be fined. Some speculative person think this proceeding very wrong; but others believe it may be defended. It must not be thought that Sweden is to be governed by the same maxims as England, France, and Holland; what enriches these powers, would entirely ruin the Swedes. By the way, it may be remarked, that policy has no method of trading that will agree with all nations. Each state must be guided by principles relative to its government, and to its own and the situation of its neighbours.

T. Br.  
Eng. Hol.  
18. 24.  
sep. art. 2.

‘ The subjects of England and Holland shall trade in each other’s European dominions, and shall be treated there as the most favoured nation. The Dutch shall conform to the regulation made by the parliament of England, 1660, and shall not import into Britain, goods or merchandizes of Germany, but those they receive by land or by some river, and which are sent to them on purpose to be exported.

Ibid. 28.  
sep. art. 1.

‘ All the declarations made during the war, to the prejudice of one of the parties shall be annulled. In case of attack or insult from what quarter soever, the English and Dutch ships that are at hand shall mutually assist one another.

Ibid. 33.

‘ On both sides no ship shall be allowed to be armed for war or cruise, till after security is given to repair the damage the captain may do, contrary to the articles of the treaty.

Ibid. 32.

‘ If war should be declared, the subjects of each party shall have six months to remove their effects. The United provinces engage not to appoint for captain-general, admiral, stadtholder, &c. one who does not promise upon oath to observe the conditions agreed upon.’

The treaty of the 15th of April 1755, between Cromwell and the states, and several other engagements concerning trade between the English and Dutch are omitted, as containing only general conventions, such as are mentioned in beginning of this chapter.

‘ The treaty of Munster 1648, between Spain and the States-general, is confirmed. All the articles of it concerning the commerce of the Netherlands shall be faithfully observed. The merchandizes brought from England or Holland, shall pay only the duties of import and export

‘ ac-



‘ according to the tariff settled at Brussels the 6th of November 1715.’

This is the 26th article of the barrier-treaty between the emperor and the United-Provinces, concluded at Antwerp 1715. T. vien.  
1731  
Emp. Eng.  
7.

The English merchants shall have in the kingdom of Sicily, all the prerogatives they enjoyed in the reign of Charles II.

‘ The subjects of the Hans-towns have the same liberty of trading in all the European dominions of England ; they shall be treated there as the most favoured nation ; but they shall be bound not to use borrowed ships, and shall make oath that the ships are their own property, and that the greatest part of the crew are natives of the country. They may import into Britain all sorts of goods and merchandizes of the growth and manufacture of Germany.’

By such acts of concession, and not by treaties, the Hans-towns have obtained these privileges.

## UNITED-PROVINCES.

Relatively to SWEDEN, to DENMARK, to DANTZICK,  
to the House of AUSTRIA.

‘ The treaties of Elbing, of the 11th of September 1656, and of Elsinor, the 9th of December 1659, are annulled by all their parties.’

This is the 3d article of the treaty of the Hague, the 28th of July 1667, between the Swedes and Holland. It had been agreed by the treaty of Elbing, that the Dutch should not pay higher duties in the ports of Sweden than the natives. How plain soever this clause was, it did not fail to create many difficulties on both sides. The parties met at Elsinor, to prevent a rupture, and it was agreed that the Dutch merchants should be treated as the Swedes, as to their goods, but should pay one per cent. more on account of their ships. This subtlety satisfied the Dutch and the Swedes. The Dutch agreed also, that they would declare the price of the goods which they imported to Sweden, and the king might take them upon his own account, adding a fifth above the set price.

G 2

‘ The

T. Hague,

4.

'The subjects of Sweden and of Holland shall trade freely, and mutually enjoy the privileges granted to the merchants of other nations.'

The Dutch have almost engrossed the whole trade of Sweden, by the large advances they have paid to the farmers of the copper mines, and to the merchants of pitch and tar. They have these goods so cheap, that they can sell them at Amsterdam at the same price that foreigners buy them at Stockholm.

T. Hague,

5.

'The Swedes shall forbear to trade to Cabo-Corso, and along the coast of Guinea. They shall not land there, unless attacked by pyrates, or forced in by a storm.'

The United-Provinces having always carried on a very rich trade in the Baltic, carefully sought the friendship of Denmark. These powers have treated together at Christianople the 13th of August 1645, and at the Hague the 22d of February 1647, the 11th of February 1666, and the 12th of February 1669. Some articles only shall be mentioned here of the treaty of 1666, which concern the Danish African company, and the Dutch West-India company.

Art. 2.

'The king of Denmark desists from all his pretensions to Cabo-Corso, Tocquoray, and Anamabo, and resigns them to the States-general.

4.

'At the expiration of the grant of the kings of Denmark to their African company, that is, at the beginning of the year 1630. Fredericksburg, Orfu, otherwise called Christiansburg, shall be given in full property to the Dutch West-India company.'

Some disputes arising between the Danes and the Dutch, they concluded the 6th of July 1688, under the mediation of the elector of Brandenburg, a provisional treaty, by which they confirmed and revived the above-mentioned treaties, till their ministers, who were to meet at Hamburg or Altena, should have made new regulations. The wars with which Europe was then troubled, hindered the conclusion of this affair, and the provisional treaty became in some measure definitive. It was not till the 25th of June 1701, that these powers concluded at Copenhagen, for twenty years, a treaty of commerce, wherein that of 1645 was confirmed. Every thing was settled relating to the liberty of navigation in the seas, ports, and rivers, of the two parties. The duties each should pay, and the immunities each should enjoy, were regulated.

'The subjects of the United-Provinces shall pay to Dantzick no higher duties of import and export than the Dantzickers



zickers themselves. The parties shall treat one another as they treat the most favoured nations.'

This is the 26th article of the barrier treaty concluded at Antwerp in 1715, and the 4th of the act of accession of Holland to the treaty of Vienna the 16th of March 1731.

The Dutch shall continue to have in the kingdom of Sicily all the privileges they enjoyed under Charles II,'

T. Vica.  
1731.

## THE NORTHERN POWERS.

Relatively to their Interests, and to the EMPIRE.

The commerce between Sweden and Poland shall be restored upon the same foot as before the war. Their subjects and the Courlanders shall freely trade on the Dwina and the Bulderau. No new imposts shall be established, nor the old ones raised higher, in the two rivers or in the ports and custom-houses of Livonia. The merchants of Great Poland shall not pay at Stetin any new duties or gabels that may be levied there. Dantzick, and the other cities of Prussia, shall enjoy in Sweden the same privileges as before the war.

T. Ol.  
15.

The Hans-Towns shall trade freely in all the demesnes of Sweden and Denmark.'

T. Cop.  
1660.

It has been observed in the second chapter, what privileges the Swedish ships obtained in the passage of the Sound; they were confirmed by the treaties of Fontainebleau and Lunden, 1679, and by that of Copenhagen of the 18th of May 1680. Afterwards Sweden was obliged to renounce these privileges. The treaty, which was concluded at Stockholm in 1720, between Sweden and Denmark, subjected the Swedes, in the passage of the Sound, to the same tolls as are paid by the English, Dutch, or most favoured nation.

31.

The subjects of the emperor, the empire, and particularly the Hans-Towns, shall be restored to all the privileges of commerce, they enjoyed before the war, in the territories of Sweden. The Swedes, the Livonians, &c. shall trade also in full liberty within the empire.

T. Nim.  
Emp. Sw.  
6.

There shall be an entirely free trade between the subjects of Poland, Lithuania, and Ducal Prussia. The differences which may arise upon this article, shall be judged by arbitration. The parties may establish, by mutual consent, new duties or tolls in their territories. Their ports shall be

T. Vel.  
Po. Br.  
1657.  
15, 17.

re-

T. Stoc.  
1720.  
2, 32.

‘ respectively open to them, and they shall be permitted to  
‘ purchase of one another all sorts of warlike stores.

‘ The commerce between Sweden and the territories of  
‘ the king of Prussia, shall be restored and favour’d.

‘ There shall be no impediment to the navigation of the  
‘ Pehne, or the inlets of the same. The king of Prussia shall  
‘ not establish new, or raise the old tolls. His subjects, as  
‘ well as other foreigners, shall have for their ships the free  
‘ use of the port of Grunswart to retire to and remain  
‘ there. They shall pay no impost in that port; and shall  
‘ enjoy the same privilege at Rugen, provided they pay at  
‘ Wolgast the usual customs before the war. The subjects  
‘ of Swedish Pomerania shall have the same liberties with re-  
‘ gard to all the ports, havens, coasts, rivers, which are ce-  
‘ ded to the king of Prussia.’

Ibid.  
32, 14,

‘ Instead of hindering, the king of Prussia shall favour, the  
‘ commerce of timber, which the Swedes have heretofore car-  
‘ ried on in Pomerania, and his other dominions. They shall  
‘ continue to traffic on the Oder and the Warthe; and care  
‘ shall be taken that the navigation of these rivers shall be  
‘ free. In fine, the subjects of the two parties shall enjoy  
‘ with one another, in respect of trade, all the privileges that  
‘ shall be granted to the most favoured nation.

T. Pleyf.  
1661.  
Sw. Ruf.  
10, 11.  
T. Mos.  
1686.

‘ The subjects of Sweden and Russia shall freely trade with  
‘ one another, and shall be allowed to have magazines in  
‘ their respective dominions.

‘ Poland and Russia mutually agree upon a full liberty of  
‘ commerce.’

The END.



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A N

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*of England.*

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